CANADIAN THESES ON MICROFICHE

THÈSES CANADIENNES SUR MICROFICHE

National Library of Canada
Collections Development Branch

Canadian Theses on
Microfiche Service

Ottawa, Canada
K1A 0N4

Bibliothèque nationale du Canada
Direction du développement des collections

Service des thèses canadiennes
sur microfiche

NOTICE

The quality of this microfiche is heavily dependent upon the quality of the original thesis submitted for microfilming. Every effort has been made to ensure the highest quality of reproduction possible.

If pages are missing, contact the university which granted the degree.

Some pages may have indistinct print especially if the original pages were typed with a poor typewriter ribbon or if the university sent us an inferior photocopy.

Previously copyrighted materials (journal articles, published tests, etc.) are not filmed.

Reproduction in full or in part of this film is governed by the Canadian Copyright Act, R.S.C. 1970, c. C-30. Please read the authorization forms which accompany this thesis.

AVIS

La qualité de cette microfiche dépend grandement de la qualité de la thèse soumise au microfilmage. Nous avons tout fait pour assurer une qualité supérieure de reproduction.

S'il manque des pages, veuillez communiquer avec l'université qui a conféré le grade.

La qualité d'impression de certaines pages peut laisser à désirer, surtout si les pages originales ont été dactylographiées à l'aide d'un ruban usé ou si l'université nous a fait parvenir une photocopie de qualité inférieure.

Les documents qui font déjà l'objet d'un droit d'auteur (articles de revue, examens publiés, etc.) ne sont pas microfilmés.

La reproduction, même partielle, de ce microfilm est soumise à la Loi canadienne sur le droit d'auteur, SRC 1970, c. C-30. Veuillez prendre connaissance des formules d'autorisation qui accompagnent cette thèse.

THIS DISSERTATION
HAS BEEN MICROFILMED
EXACTLY AS RECEIVED

LA THÈSE A ÉTÉ
MICROFILMÉE TELLE QUE
NOUS L'AVONS REÇUE

Canadä

NL 339 (r. 86/09)

National Library of Canada
Bibliothèque nationale du Canada

Ottawa, Canada
K1A 0N4

162

TC – 67412

ISBN 0-315-19504-5

CANADIAN THESES ON MICROFICHE SERVICE – SERVICE DES THÈSES CANADIENNES SUR MICROFICHE

PERMISION TO MICROFILM – AUTORISATION DE MICROFILMER

• Please print or type – Écrire en lettres moulées ou dactylographier

AUTHOR – AUTEUR

Full Name of Author – Nom complet de l'auteur: HAROON NASIR

Date of Birth – Date de naissance: 8 January 1947

Canadian Citizen – Citoyen canadien: ☑ Yes / Oui ☐ No / Non

Country of Birth – Lieu de naissance: Pakistan

Permanent Address – Résidence fixe:
Dept of Sociology
University of Alberta
Edmonton, Alberta

THESIS – THÈSE

Title of Thesis – Titre de la thèse: FRANCO-ENGLISH ETHNOLINGUISTIC CONFLICT IN CANADA 1759-1982

Degree for which thesis was presented / Grade pour lequel cette thèse fut présentée: PhD

Year this degree conferred / Année d'obtention de ce grade: 1985

University – Université: The Univ. of Alberta

Name of Supervisor – Nom du directeur de thèse: Dr. Charles W. Hobart

AUTHORIZATION – AUTORISATION

Permission is hereby granted to the NATIONAL LIBRARY OF CANADA to **microfilm** this thesis and to **lend** or **sell copies of the film.**

The author reserves other publication rights, and neither the thesis nor extensive extracts from it may be printed or otherwise reproduced without the author's written permission.

L'autorisation est, par la présente, accordée à la BIBLIOTHÈQUE NATIONALE DU CANADA de **microfilmer** cette thèse et de **prêter** ou de **vendre des exemplaires du film.**

L'auteur se réserve les autres droits de publication; ni la thèse ni de longs extraits de celle-ci ne doivent être imprimés ou autrement reproduits sans l'autorisation écrite de l'auteur.

ATTACH FORM TO THESIS – VEUILLEZ JOINDRE CE FORMULAIRE À LA THÈSE

Signature: Haroon Nasir

Date: 22 April, 1985

NL-91 (r. 84/03)

Canada

THE UNIVERSITY OF ALBERTA

FRANCO-ENGLISH ETHNOLINGUISTIC CONFLICT IN CANADA 1759-1982

by

HAROON NASIR

©

A THESIS

SUBMITTED TO THE FACULTY OF GRADUATE STUDIES AND RESEARCH
IN PARTIAL FULFILMENT OF THE REQUIREMENTS FOR THE DEGREE
OF DOCTOR OF PHILOSOPHY

DEPARTMENT OF SOCIOLOGY

EDMONTON, ALBERTA
SPRING, 1985

THE UNIVERSITY OF ALBERTA

RELEASE FORM

NAME OF AUTHOR	HAROON NASIR
TITLE OF THESIS	FRANCO-ENGLISH ETHNOLINGUISTIC CONFLICT IN CANADA 1759-1982

DEGREE FOR WHICH THESIS WAS PRESENTED DOCTOR OF PHILOSOPHY

YEAR THIS DEGREE GRANTED SPRING, 1985

Permission is hereby granted to THE UNIVERSITY OF ALBERTA LIBRARY to reproduce single copies of this thesis and to lend or sell such copies for private, scholarly or scientific research purposes only.

The author reserves other publication rights, and neither the thesis nor extensive extracts from it may be printed or otherwise reproduced without the author's written permission.

(SIGNED) Haroon Nasir

PERMANENT ADDRESS:

Dept of Sociology
the University of Alberta
Edmonton, Alberta

DATED April 22, 1985

THE UNIVERSITY OF ALBERTA

FACULTY OF GRADUATE STUDIES AND RESEARCH

The undersigned certify that they have read, and recommend to the Faculty of Graduate Studies and Research, for acceptance, a thesis entitled FRANCO-ENGLISH ETHNOLINGUISTIC CONFLICT IN CANADA 1759-1982 submitted by HAROON NASIR in partial fulfilment of the requirements for the degree of DOCTOR OF PHILOSOPHY.

Charles ....
Supervisor

Baha Abu-Laban ....

....

R. J. Baird ....

Kenneth D. McRae ....
External Examiner

Date April 12, 1985 ....

Dedicated to My Brother

M. FARUQ ADIL

ABSTRACT

This study focuses on "understanding" and interpreting the legal history of ethnolinguistic plurality in Canada in the context of changes in the socio-political situation. In particular, answers to the following questions are sought: (a) What is the legal status of the "official" languages in Canada? (b) How have the language laws evolved? (c) How has the judiciary interpreted these language laws? (d) How do we understand the evolution of these language laws in light of Canadian socio-political history?

The study covers the period 1759 to 1982. Further, it is restricted to the federal government and the province of Quebec. In principle, it neither covers other provinces nor the municipal (local) governments in general. Some provinces --particularly, Manitoba, New Brunswick, and Ontario-- receive selective attention to serve as illustrative aids in specific instances, however..

Appropriate to specific objectives of this research, it has involved perusal of the following material: (a) archival documents containing the constitutional ruling on provisions on languages in Canada; (b) language laws enacted by the British, and the Canadian federal and provincial governments; (c) legislative proceedings connected with the enactment of language laws; (d) judicial proceedings and decisions trying breach of language laws, orders-in-council, executive decisions, and challenges to their constitutional validity; (e) official reports prepared by various Royal

Commissions, and the legal, political, historical, and sociological scholarly commentaries on the subject-matter.

The study attempts to interpret ethnolinguistic conflict in Canada in terms of five theoretical models (Conflict Model, Cultural Model, Relative Deprivation, Internal Colonialism, and Consociationalism) which cut across different disciplines. Whereas all of these models are seen as illuminating the Franco-English tension in Canada, the study suggests that the fissiparous tendencies have been held in abeyance through an admixture of coercion and consociational (working) agreements. Further, it proposes that the *Conflict* and *Relative Deprivation perspectives* may be seen as salient interpretations of Franco-English rivalry since the "Quiet Revolution." The *Colonial Model* may explain the relation between the two groups in the pre-Confederal period. However, the *Culturalist's perspective*, particularly the perceived threat to French *ethnolinguistic identity*, may identify a key factor and a continuing source of tension in understanding Franco-English ethnolinguistic relations in Canada.

The study proposes the following conclusions: (a) Ever since the Conquest (1759) the *Canadiens* have lived as a minority group. (b) Apart from experiencing day-to-day disadvantages, and the expected subordination of a minority group, the *Canadiens* have felt the necessity to be continually on guard against threats to their survival as a distinct entity. (c) Disadvantages --political, social, and

economic-- have been passed on to the French, and/or perceived by them as administered, at least in part, through linguistic sanctions, both in terms of withholding recognition and/or making unequal linguistic provisions.

(d) The threat to Francophone survival that the *Canadiens* perceive in linguistic assimilation and loss of demographic strength, is rooted in Canadian history.

ACKNOWLEDGEMENTS

I wish to thank all the members of my committee --Professors Baha Abu-Laban, Richard Baird, Charles Hobart, and Raj Pannu-- for their constructive criticism and suggestions for improving the earlier drafts of this manuscript. I am especially indebted to Dr. Hobart for his guidance and understanding. Professor Kenneth McRae, the external examiner, has my gratitude for recommending some final improvements. The end-product, thus, has benefitted from much useful advice. However, they are not responsible for the particular direction I have adopted in this work.

I also wish to acknowledge my respect for Professor Emeritus Gwynn Nettler, who was a member of my doctoral committee when I was engaged in formulating this research prospectus.

In addition, I would like to acknowledge the indelible mark of scholarship that my dear father, late Professor Mohammad Amin, has left on my intellectual career. My wife Bushra, and our children, Sarah and Aman, deserve a special recognition for putting up with an "absent-minded" husband/father while I was engaged in my research.

Table of Contents

Chapter Page

I. INTRODUCTON 1

A. FOREWORD 1

B. ETHNOLINGUISTIC PLURALISM: A BIRD'S EYE VIEW ...2

Language in Inter-Ethnic Integration 6

C. THE SCOPE OF THIS STUDY 13

D. ORGANIZATION OF THE THESIS 14

II. THEORETICAL PERSPECTIVES 16

A. CONFLICT MODEL 16

B. CULTURAL MODEL 19

C. INTERNAL COLONIALISM 22

D. RELATIVE DEPRIVATION 24

E. CONSOCIATIONALISM 29

F. SUMMARY 31

III. SOME METHODOLOGICAL PRELIMINARIES 36

A. ON RESEARCH STRATEGY 36

B. ON HISTORICAL APPROACH 37

C. ADEQUATE SOURCES 40

D. SUMMARY 44

IV. FRANCO-ENGLISH ETHNOLINGUISTIC TENSION: FROM CAPITULATION TO CONFEDERATION 46

A. FROM CAPITULATION TO CESSION: THE MILITARY RULE 46

B. THE TREATY OF PARIS AND THE INSTITUTION OF CIVIL GOVERNMENT IN CANADA 51

The Ordinance of September 17, 1764 55

The Ordinance of July 1, 1766 61

C. THE QUEBEC ACT OF 1774 70

An Independent America and a New Quebec: Changed Demography and Anglicization 75

D. THE CONSTITUTIONAL ACT OF 1791 AND THE BIFURCATION OF QUEBEC 79

Upper Canada 80

Lower Canada: Ethnolinguistic Tension 83

Proposed Bill of Union 96

Durham Report: A Blueprint for Amalgamation 102

E. THE ACT OF UNION 1840, AND THE OFFICIAL SUPREMACY OF THE ENGLISH LANGUAGE 107

F. AMENDMENT OF THE UNION ACT - 1848 - AND OFFICIAL BILINGUALISM IN BRITISH CANADA 113

The Quebec and London Resolutions and the Pre-Confederation Debates 119

G. SUMMARY AND DISCUSSION 123

V. FROM CONFEDERATION TO QUIET REVOLUTION 133

A. THE B.N.A. ACT, 1867 134

B. BILINGUAL LEGISLATION 137

Translation Difficulties 139

Discordance in Bilingual Legislation 142

Subordinate Legislation 145

C. LANGUAGE IN COURTS 147

Administrative Tribunals 155

D. BILINGUALISM IN EDUCATION 157

Manitoba 158

Curtailment of French Language in Ontario Schools 169

Other Provinces 173

E. LANGUAGE IN FEDERAL ADMINISTRATION 179

Early Language Legislation Regarding Public Administration 184

Merit Replaces Patronage 187

The Civil Service Act 1960-61 200

Prime Minister Pearson Announces Policy of Bilingualism 205

F. SUMMARY: PRECURSORS OF QUIET REVOLUTION 206

G. DISCUSSION 215

VI. FROM QUIET REVOLUTION TO REPATRIATION 230

A. RECOMMENDATIONS OF THE ROYAL COMMISSION ON BILINGUALISM AND BICULTURALISM 230

B. OFFICIAL LANGUAGES ACT 234

C. OFFICIAL LANGUAGES OF NEW BRUNSWICK ACT 247

D. CONSTITUTIONALITY OF OFFICIAL LANGUAGES ACTS .249

E. BILINGUALISM IN PUBLIC SERVICE IN CANADA 257

F. QUEBEC PLANS HER OWN STRATEGY 263

Bill 85 265

Bill 63 266

Bill 22 270

Bill 101 274

G. CONSTITUTION ACT 1982 279

H. SUMMARY AND DISCUSSION 281

VII. SUMMARY AND CONCLUSIONS 290

A. EVOLUTION OF LANGUAGE LAWS IN CANADA 291

Before Confederation 291

After Confederation 296

Since 1960 299

B. ANALYSIS: *LA SURVIVANCE* TO *L'EPANOUISSEMENT* ..303

Theoretical Analysis 303
C. CONCLUSION 316
Ethnolinguistic Identity 317
Modus Vivendi 320
VIII. REFERENCES 326
A. ACTS, ORDINANCES, REGULATIONS, etc. 326
B. JUDICIAL CASES 332
C. ARTICLES, BOOKS, REPORTS 337

I. INTRODUCTON

A. FOREWORD

Intra-"state" ethnolinguistic diversity is a worldwide phenomenon; it is not unique to Canada. Inter-ethnic contiguity may lead to integration or a conflict. "Integration" may take the form of "assimilation," "acculturation," or "ethnic plurality." Lack of integration or accommodation, however, is a sign of conflict. Ethnic languages often play a significant role in inter-ethnic tension. Perhaps for the same reason, "linguicidal" measures have been used in history to prevent fissiparous tendencies (Esman, 1977:378; Grimshaw, 1969:315-316; Rudnyckyj, 1976).

Ethnolinguistic conflicts are context-bound. They differ from country to country with the varying demographic, religious, cultural, linguistic, economic, and socio-political histories of the host countries. Students of socio- and ethno-linguistics have acknowledged lack of a developed information pool --both theoretical postulates and descriptive facts-- in the area of language and ethnicity (Anderson, 1979; Brazeau and Cloutier, 1977; Esman, 1977; Grimshaw, 1969; Hechter, 1975). Hence, there is a need to explore the possibility of filling such lack of "knowledge."

This research is proposed to be a step in that direction. We intend to focus on ethnolinguistic politics in Canada with particular reference to the official (legal) stand on language alternatives and an interpretation of this official position in the light of Canada's socio-political history.

In particular, we wish to seek answers to the following questions:

1. What is the legal status of the "official" languages in Canada?
2. How have the language laws evolved?
3. How has the judiciary interpreted these language laws?
4. How do we interpret Canada's language laws in light of her socio-political history?

B. ETHNOLINGUISTIC PLURALISM: A BIRD'S EYE VIEW

Human beings with diverse ethnic and linguistic backgrounds have been drawn together for centuries as a result of trade, conquest, colonialism, and the search for better prospects. This close contact has resulted, on the one hand, in the development of "pidgins" and "creoles," and on the other, in the brewing of ethnolinguistic conflicts and "ethnolinguistic nationalism" (Le Page, 1964).

The existence of diverse ethnolinguistic groups as a collectivity may be seen as a danger to the "integrity"[1] of a state. The literature on ethnic and minority relations generally attends to three classes of probable outcome when two ethnic groups live in close proximity.

---

[1] Integrity --at least political-- may be deemed in effect as long as the state boundaries are not threatened by the multi-ethnic inhabitants of a country.

One possible result consists in either of the two groups (usually the minority) replacing its "identity"[2] with that of the other, thus becoming "assimilated."[3] The "ideal type" of assimilationist situation would entail total absorption of one group into another whereby the assimilated group would become extinct, "a process sometimes referred to as amalgamation" (Panelosa, 1981:172). Hughes and Killen (1974:152) identify the concept of assimilation as "the process of penetration by an individual or group of the social institutions of an ethnic group to which one does *not* belong." They see assimilation theoretically "as a continuum from one polar extreme, in which a people's original social institutions remain intact and there is no penetration of majority social institutions (no assimilation) to the other polar extreme in which a people's original social institutions become extinct, and there is complete penetration of majority social institutions (total assimilation)."

Another possibility is that the two contiguously living ethnic groups may "acculturate," i.e., evolve a new culture -- a compound of the two. Acculturation in its ideal type refers to

> the process whereby contact between members of

---

[2] Identity is placed within quotation marks to recognize the global nature of the concept.

[3] Assimilated is placed within quotation marks to realize that assimilation may take place in varying degrees.

> different ethnic groups or categories results in the exchange of objects, ideas, customs, skills, behavior patterns and values between the two groups. This on-going cultural exchange is a two-way process in which each ethnic group selects from the other particular items and attributes which may eventually become absorbed into its own system [Hughes and Killen, 1974:150-151].

However, this process of acculturation is rarely symmetrical. Usually one party to the transaction adopts more than the other. This is particularly so in case of linguistic acculturation (Panelosa, 1981:171).

The final possibility is for both of them to stay distinct and formulate a multi-ethnic society under one political sovereign. Here, the two groups refrain from deliberate assimilation or acculturation. They preserve their ethnic identities, and either tacitly "accommodate" each other in an ethnic plurality, or expressly agree to accept each other as they are in an ideology of plural*ism*.

Different means are chosen to facilitate communicability in such interethnic meetings. In the case of assimilation, only one group need become bilingual, while the other, reflecting its dominance, may remain monoglot. However, there is a likelihood that the bilingual group will then lose its original language and will become unilingual, acquiring the language of the dominant group (Mackey, 1967:12).

In the case of ethnic acculturation or ethnic plurality in a state, the monolingual groups may overcome the linguistic barrier to communication in one of the following two ways. First, the monolingual may become bilingual with respect to a third language, often a "pidgin" or "creole," or an alien international tongue. Such an outside vernacular becomes the *lingua franca*[4] for interaction between the two groups. This was a usual approach adopted by most of the former colonies. The second solution consists in the monolingual groups becoming mutually bilingual, i.e., *A* learning the language of *B*, and *B* learning the language of *A*. This usually occurs when the monolingual groups are roughly equal in strength, as were those of English and Dutch extraction in White South Africa. Both of these solutions are symmetrical as compared with the asymmetrical situation in the case of interethnic assimilation.

In each of these three cases of ethnic meeting --assimilation, acculturation, or ethnic plurality-- compatibility and harmony among the citizens may be assumed *at least* for the purpose of maintaining territorial boundaries of their common country. Peaceful coexistence of ethnic groups may be impeded, however, under various circumstances.

---

[4] As Albert Breton (1978:11, n.8) notes:

> This is an Italian expression which can be literally translated as Frankish language. All Europeans were once known as Franks in the Levant, and the language they spoke --a mixture of Italian, French, Spanish, Greek, and Arabic-- was referred to as the language of the Franks or *lingua franca*. Since that language allowed those who used it to communicate and to transact business in all Mediterranean ports, the expression came to be used to denote any language employed as a common vehicle of communication by people of different tongues.

Impediments to ethno-political integration, or even peaceful co-existence, may include serious "cultural," religious, or linguistic differences among the inhabitants of one country, or the feelings of relative deprivation on the part of the disadvantaged group. In such cases, the "minority"[5] may resist "integration" and instead work for separation and independence (Hechter, 1975:5-42). These gulfs may be found in various societies in different combinations at different times. Canada is one example of a "society" lacking ethnic harmony (Brazeau and Cloutier, 1977:206-210; Goell, 1971:30; Smiley, 1977:187).

Language in Inter-Ethnic Integration

Language differences, though one of several sources of contention, occupy an exceptional position in interethnic relations. Language gives us status, and is also a factor in social mobility. The language we speak is implicated in our cognitive system and has emotive dimensions. And finally, language may serve as a unifying force and as a mechanism of social control.

---

[5] "Minority" is used here in the sociological sense of a disadvantaged group. According to Elliott (1971:2)

> a group is a minority group if (a) its culture is not the one transmitted by agents of socialization controlled by the larger society and (b) its members are under-represented in decision-making bodies. In addition the minority tends to be subjectively aware of its "differentness" and makes we/they distinctions concerning its own members and members of the dominant society.

Contrastingly, "a majority group is termed *majority* because it exerts influence and possesses or controls the bulk of the power within a given society" (p.1).

Language is a crucial element in human identity (Alter, 1972; Gumperz, 1982). Man grows up in a speech community where, in addition to language, he acquires "speech habits" of that community. Language is thus not only a means of communication, but also a medium of communion, a mode of self-expression, and a vehicle of our socialization (Le Page, 1964).

Language defines a group (Fishman, 1977; Hartig, 1981; Heller, 1982; Khleif, 1979). A linguistic criterion may be employed in crises to discriminate one ethnic group from another in an otherwise indistinguishable situation. In the 1971 domestic conflict in the then East Pakistan (now Bangla Desh), Bengali residents reportedly used Bangla language facility as a criterion to differentiate a Bengali from a non-Bengali ethnic.

Our languages have an ingrained emotive dimension (Osgood, 1970). The languages we speak may help personal integration, may contribute to cementing of social bonds and facilitate harmonious relationships among human beings. As a language of one's religion our vernaculars also acquire a sacrosanct status. Thence, an attack on one's language may be deemed an attack on one's religion as well.

An alien language, it is claimed, alienates one from one's culture. Movements seeking independence from colonial rule invariably exalt one of the native languages to the status of a National language to eradicate feelings of colonial legacy.

The languages we speak constitute an integral part of our cognitive system. There is some evidence that contents of thought shift from one language to another (Ervin-Tripp, 1964). Some, like Benjamin Lee Whorf (1941), have gone to the extent of suggesting that language controls one's thought processes and even determines conception of reality. Others --for example, Bruner, Furth, Piaget, Vygotsky-- acknowledge the close connection between language and cognition without imputing a definitive causal interpretation to this relationship. The literature is vast. It can be sampled in Boyle (1971), Bruner (1964), Furth (1966), Lenneberg (1967), Nasir (1979), Piaget(1954, 1968), Trudgill (1974), Vygotsky (1962), and Whorf (1964). Whether or not language differences *produce* varying modes of thought, there is wide agreement that not only do the languages spoken by the mankind differ from one another but also the users of those languages are markedly different people (Horton and Finnegan, 1973).

Different languages bestow different status on their speakers (Heller, 1982). Also, the users of different variants of the same language are afforded varying prestige. So intense are one's linguistic affiliations that an attack on one's language is often seen as an attack on one's person.

Language is a unifying force. Among the various objective manifestations of ethnic identity language is considered to be one of the most potent --albeit allegedly dispensable-- vectors (Anderson, 1978). The resurrection of Hebrew in Israel is a classical case of inducting a "dead" language to cement unity among the Jews. Ireland presents another case of a revival of a "half-forgotten" language. Gaelic, the indigenous language of the Irish Celts, was virtually exterminated by the iron rule of the British Empire. However, the Irish people preserved their ethnic identity even after being forced to adopt English as their mother tongue. And notwithstanding the drastic linguistic shift, Celtic linguistic claims were activated in the struggle for freedom from the United Kingdom. The freedom fighters vowed to see Ireland "Gaelic as well as free" (McCaffrey, 1979:160). It is noteworthy that even though the Irish became monoglot English speakers, yet Gaelic influences in Irish English persisted after *eight hundred years* of foreign occupation (Adler, 1977:108-109).

The language that gives us a sense of identity may thus also be used as a *mechanism of social control.* Language is a potential candidate for motivating and initiating societal engineering as well as for resisting innovations (Grimshaw, 1969:315-316). While on the one hand nationalist feelings stir up linguistic biases, on the other, attempts at abolishing "pidgins" and "creoles," or relegating some of the prevalent languages to a subordinate status by withholding institutional recognition, accentuate the use of such vernaculars as vehicles in nationalist independence struggle.

In sum, even though language is only one of the visible markers of an ethnic group, it is perhaps the most important and lasting attribute of ethnic identity. However, ethnic identity also has implications for one's value system, style of life, and religious subscriptions. Hence, "linguicidal" measures do not necessarily prove to be "ethnicidal." But while ethnic differences may become volatile on account of economic deprivation or loss of religious freedom, linguistic uniqueness often emerges as a unifying force and a catalytic agent in a brewing conflict.

Governments in charge of ethnolinguistically diverse societies many a time face a dilemma: While territorial concentration of ethnic groups may limit the chances of interethnic interaction and hence may prevent friction, it is known that such a strategy also aids retention of ethnic languages (Hechter, 1975:42; Mackey, 1967:48) and retards evolution of supra-ethnic affiliations, thereby sustaining schismatic tendencies. On the other hand, deliberate attempts at promoting interethnic interaction expose the population to different belief systems, incompatibility among which may exacerbate ethnic disparities (Hechter, 1975:312). It should therefore be interesting and informative to find out how ethnolinguistically plural states of the world are handling these concerns.

The Study of Ethnolinguistics

The emergence of problems emanating from diverse ethnic and linguistic groups, one would suspect, would be part of human history -- perhaps as old as recorded history itself. However, the study of ethnolinguistics as a separate subject is still in an embryonic stage. It "*yet lacks a general theoretical perspective*" (emphasis supplied) (Hechter, 1975:191).[6] The relative recency of focused attention on this subject may be one explanation for the paucity of theoretical work in the area. The inherent difficulty in theorizing about ethnic pluralism or conflict, because of the *contextual nature*[7] of ethnolinguistic problems, may be another reason for the scarcity of systemic studies. Whereas "the need for minority groups to be fluent in languages other than their own has been historically demonstrated," Brazeau and Cloutier (1977:216) inform, "the consequences of such fluency in different types of societies, industrial and non-industrial, have *yet to be closely examined with respect to groups rather than persons*"

---

[6] The three other surveys in this area conducted by Fishman, Ferguson and Das Gupta (1968), Giglioli (1972), and Gumperz and Hymes (1972) are acknowledged by Hechter.

[7] Confining himself to the "industrialized countries" of the world, Esman (1977:12-13) portrays the complexity of the task in this way:

> The theoretical task is complicated by the variety of historical and institutional circumstances affecting ethnic political movements in industrialized countries. Some of these movements have emerged within highly centralized, unitary states, such as France, Spain, and Great Britain, while others, including those in Canada, Switzerland, and Yugoslavia, occur within federal systems. Some of the grievances that fuel these movements are primarily economic, as in Scotland, while others are mainly cultural, as in the case with the Basques. Still other movements, such as in Quebec, are motivated by both types of grievances. Some ethnic homelands, including Croatia and Catalonia, are relatively rich; others, such as Brittany and Corsica, are relatively poor. Some have substantial populations in relation to the total in their countries (Flanders and Quebec); the populations in others are relatively small (Wales and South Tyrol). Some function within such highly consensual polities as Belgium and Great Britain; others must attempt to mobilize support in authoritarian systems, as in Spain and Yugoslavia....

---

[7] (cont'd)
The context of the ethnolinguistic conflicts may become still more complicated if we were to include in our consideration the non-industrialized "Third World" countries. The complexity of the phenomenon may be summarized by listing some of the varieties of the conflict situations, as follows:

(a) The ethnolinguistic constitution of a country: This will include not only the number of ethnic/linguistic groups involved but also the relative strength and pattern of location of these people.

(b) The history of migration (or non-migration) in the region.

(c) The coupling of religious affiliations with a language.

(d) The relative developmental stage of the languages: Here one asks if the languages involved are of international, regional/local, or "tribal" (non-written, non-standard) vernacular status.

(e) The relative economic development of the concerned linguistic groups.

(f) The symbolic significance attached to the "national," "official" languages.

(g) The vested interests of educated elites conversant in the official languages (often "imported" tongues in the "Third World").

(h) The grant or withdrawal of official/national status to a language, for reasons of political expediency.

(emphasis supplied). Under the circumstances, Brazeau and Cloutier maintain (p. 209) that, *"consideration of broad internal realities and explanations drawn from external comparisons are required"* to better understand the multi-lingual and multi-ethnic situations in a given country (emphasis supplied).

C. THE SCOPE OF THIS STUDY

The primary focus of this study will be on the "understanding" and interpretation of the legal history of ethnolinguistic plurality in Canada in the context of the changing socio-political situation. Canada affords an apt and interesting opportunity for an examination of ethnolinguistic rivalry. This country is now going through a crucial stage in her history when the competing ethnolinguistic demands are striking at the very survival of the state.

We confine this research to the period -- 1759, when the British replaced the French as the imperial power, to the repatriation of the *British North America Act* to Canada, in 1982. The study is restricted to the federal government and the Province of Quebec. In principle, it neither covers other provinces nor the municipal (local) governments in general. Some provinces --particularly, Manitoba, New Brunswick, and Ontario-- receive selective attention to serve as illustrative aids in specific instances, however. Also, the ethnolinguistic tension in the provinces is traced

--if at all-- mainly from the time they joined the Canadian confederation.

Since this study is primarily exploratory in nature, where in addition to answering some preliminary queries we wish to develop a better "understanding" of the relatively unexplored area and hope to formulate some new ideas rather than offering to test some specific hypotheses, the best approach seems to be an examination of the relevant official documents together with a critical review of some secondary sources.

Appropriate to specific objectives of this research, it has involved perusal of (a) official documents containing the constitutional ruling on provisions on languages in Canada, (b) the proceedings of the Parliament of Canada, (c) the language laws enacted by the respective governments, and (d) court cases trying any breach of these Acts, Orders-in-Council, or executive decisions, or any challenges to the very constitutionality of them. In addition, we have studied (e) official reports prepared by commissions like the *Royal Commission on Bilingualism and Biculturalism*, and (f) the legal, historical, political, and sociological commentaries on the subject matter.

D. ORGANIZATION OF THE THESIS

Before delving into the area of our concern, we present a brief survey of theoretical perspectives and some methodological issues relevant to our research, in chapters *two* and *three* respectively. Chapters *four*, *five*, and *six* deal with the history of ethnolinguistic conflict between the English- and the French-Canadians in North America from 1759 to 1982. For convenience of presentation, this long history has been trifurcated, with Confederation in 1867 and the "Quiet Revolution" of 1960's as providing meaningful turning points. Thus, we sketch the Franco-English relations from the military subjugation of the French by the British forces in 1759 to the Act of Confederation in 1867 in chapter *four*. Chapter *five* traces this ethnolinguistic struggle from Confederation to the "Quiet Revolution." Finally, in the *sixth* chapter we deal with the current Francophone-Anglophone tension in Canada from 1960's to 1982, the repatriation of the Constitutional Act. While each of these three substantive chapters includes a summary and discussion of the conflict in the respective period, we present a final summary together with a discussion and our conclusions, in the last, *seventh*, chapter.

II. THEORETICAL PERSPECTIVES

Perhaps more than anything else it has been the *contextual* nature of ethnolinguistic conflicts on the one hand and the density of the conflict situations on the other that have hindered in the development of general theories in the area of ethnolinguistic tensions. Hence the concerned scholars have generally interpreted their experiences and observations of the difficulties of interethnic coexistence in the light of traditional thoughtways.

From the theoretical ideas that have circulated among the intelligentsia, the following ones seem to have won greater attention of ethnolinguistic scholars:

- Conflict theory
- Internal colonialism
- Relative deprivation
- Cultural perspective
- Consociationalism

We now present a summary of these thoughtways.

A. CONFLICT MODEL

The root of the conflict theory is in the clash of interest in human beings -- both individuals and groups. The conflict tradition can be traced from Machiavelli and Hobbes to Marx and Weber. Machiavelli and Hobbes suggested that human behavior was a function of individuals' selfish interests in a material world of threat and violence. Marx elaborated upon some of the material conditions that mobilized particular interests. Historically, according to Marx, property in different forms --upheld by the coercive power of the state-- locates the root of conflict-prone class struggle. Property bestowed coercive power in the hands of their owners and "resulted" in dominance/subordination relationship. Hence, traditionally, antagonism is seen between slaves and slave owners, serfs and feudal landlords, and workers and capitalists (Collins, 1975).

This Marxian class struggle oriented conflict approach was expanded by Weber in his tripartite bases of human conflict in society. For Weber, the tension is not just economic but also arises out of interacting, but separable, dimensions of *status* and *power*. Whereas "status" is implicated in social honor and prestige, life style and sense of self-respect, "power" stands for the ability to secure compliance against one's will. "Social power" inheres in a group that enjoys the privilege of giving orders to others. Both status and power are derived, *inter alia*, from one's economic situation, educational background, religious affiliation, and ethnicity (Collins, 1971; 1975; Miller and Roby, 1970; Weber, 1968:53, 926-939).

Conflict is seen as a *process* in which "power" --an inherently finite resource-- regulates the politico-economic interests of contending forces. The group that is successful in wielding such (coercive) power against others is then, *ipso facto*, the "advantaged" group or the "dominant" class (Vallee, 1975:181).

Weber further universalizes the Marxian class conflict to include struggles --including communal ones-- that may transcend Marxian classes or overlap them in varying degrees by propounding the concept of "social closure." "Social closure," for Weber, is a process that tends to maximize rewards by restricting access to rewards and "opportunities," (usually economic) to a limited circle of "eligibles" -- the "insiders." The "insiders" could take on a number of compositions, including the ones that are based on certain identifiable social and physical attributes.[8] The duality of the rift thus becomes apparent in that the "insiders" try to monopolize the routes to power, status, income, etc., and the "outsiders" (or the "minorities" in the sociological sense), in turn, retaliate by challenging the prevailing system of distribution. Social closure, thus, has two main generic forms, *viz.*, "power of exclusion," which is exercised by the dominant group, and the "power of solidarism," that excites the minorities to challenge exclusion through usurpation (Parkin, 1974; Weber, 1968).

In a nutshell, the "conflict" approach to interethnic relations attends to the *"structure of power"* in society that may be held responsible for ensuring allegedly discrepant opportunities for satisfying material interests. It points to inequalities in a multi-ethnic society and a clash of interest between the unequals: the dominant ethnic group trying to maintain the *status quo* and the subordinates (minorities) struggling to rectify the prevailing inequality. The students of multi-ethnic societies who adopt the conflict approach, hence, "look for the political and economic standing of different ethnic groups relative to one another, to see how these groups fare with reference to decision-making over their own lives and over society" (Vallee, 1975:181).

---

[8] Like color, sex, age, race, ethnicity, language, etc.

Conflict of interests among ethnic groups is also observed in a different vein by social scientists who focus on conflicting traditions and values rather than material interests and power. These scholars are classified as the "cultural" or "sub-cultural" theorists.

B. CULTURAL MODEL

Cultural variability is an established fact in the library of ethnography. Differences in cultural "ideographs" and their "influence" on human behavior have long been of interest to sociologists, psychologists, political scientists, and economists in general, and to historians and anthropologists in particular.

Culture is generally understood as "a way of life of a people who have a sense of common history" (Nettler, 1984:239). It enshrines "a peculiar way of thinking, feeling and behaving" (Eliot, 1948:57). These peculiarities are recognized as generally distinct markers that distinguish one culture from another (Horton and Finnegan, 1973). Language, dress, diet, faith, and leisure activities are commonly noted as some of the more apparent cultural markers. However, of greater importance to intergroup behavior are differences in value-orientations that are recognized as culture-specific. These cultural peculiarities are observed as patterns of human group behavior. Some students of human behavior have shown that these qualitatively described cultural patterns and value-orientations can be measured (Cattell, 1950; Kluckhohn and Strodtbeck, 1973; Morris, 1956; Rokeach, 1973; 1979; Rosen, 1959).

Cultural traits with characteristic value systems are, by definition, enjoined or preferred patterns of behavior. These patterns are intergenerationally transmitted, jealously adhered to, and tend to be relatively enduring. They shape our words and deeds and constitute our styles of life (Lewis, 1959; 1966; Miller, 1958; Nettler, 1984; Rokeach, 1973).

The Cultural Model, accordingly understands/interprets intergroup relations in the light of similarity or contrast between such behavioral patterns. However, for the proponents of this model, the understanding of cultures and cultural differences promotes insight and appreciation of how things *are* as they are rather than explaining why they are that way or how could they be changed. It is this peculiarity that prompts some scholars to downplay the cultural explanation (cf. Abell and Lyon, 1979; Shlonsky, 1984; Valentine, 1968). There are others, however, who cannot help appreciating the factuality and salience of cultural influence on human behavior.

The Cultural Model is hence criticized by some for what the proponents of this thoughtway do *not* tell rather than for what they say. The beauty of this mode of "explanation" is that it is descriptive and it is true (Nettler, 1984: 245). It admittedly does not (explicitly) offer a remedy that is amenable to social work. However, it increases our forecastability. Further, although culturalists are open to attacks of explanatory circularity --in that they interpret "one kind of behavior by reference to attitudes and behaviors that are of the substance of what is to be accounted for" (Nettler, 1984:246)-- their strength may inhere in predictive validity (Rankin, 1975). The adequacy of the Cultural Model hinges on what one wishes to do with the cultural explanation. It is in this context that one scholar (Nettler, 1984:248) has imputed moral motives for the criticism of Cultural Model. These motives, it is suggested, deny cultural differences, deny their durability, or else call them "adaptive," "rational," and "understandable." Notwithstanding the issue of adequacy of the Cultural perspective for societal engineers, Nettler (1984:249) cites substantial research in support of an empirical fact that "cultural persistence in changed environments has been noted for a wide variety of groups."

However, it is acknowledged that, cultures are stable, not permanent. Patterned group responses do change --though often very slowly-- *inter alia* by the structures of constraints/opportunities. Nonetheless, it is also averred that there is no "necessity" in structural constraints (even under dire circumstances) that *requires* one behavior rather than another (Nettler, 1984:249; Turnbull, 1972). The robustness of cultural patterns often surprises students of the society.

The tension between English- and French-Canadians is understood by several scholars in terms of cultural differences. It is observed that the two groups differ greatly, and with perceptible "consequences" (Bouchette, 1901; Brady, 1963-64; Cameron, 1974; Cappon, 1978; Cook, 1964-65; 1965; Falardeau, 1960; Griffith, 1964; Jeanneret, 1960; Keyfitz, 1963; Kwavnick, 1965; Legendre, 1982; Madsen, 1981; Richer and Laporte, 1971; Taylor, 1964; Trudeau, 1956; Wilson 1974; Wilson and Mullins, 1974.)

On the other hand, the clash of traditions and values together with a conflict of material interests is also interpreted by some scholars in the language of colonialism.

C. INTERNAL COLONIALISM

Lack of accommodation in a multi-ethnic society is sometimes explained through invocation of a model, called "internal colonialism." Internal Colonialism parallels the traditional Colonialism.

Colonialism has internationally been understood as political subjugation and economic exploitation of a *geographically separated* people of a different race/culture (Blauner, 1972; Kennedy, 1945). The economic exploitation has included the land of the colony, its raw materials --agricultural and mineral-- labor, and other resources. And the political subjugation has entailed a formal recognition of differences in power and establishment of legal agencies for the maintenance of the subordinate status of a colonised people (Balandier, 1966; Kennedy, 1945). There are some obvious exceptions to this classic version of colonialism, however. For example, both the White and the Black occupied the *same* geographico-political unit in South Africa and Rhodesia, though otherwise maintaining the dominant/subordinate relationship of colonialism (Carmichael and Hamilton, 1967:chapter 1).

Whereas the traditional colonial structure applied at an inter-state level (with the dominant state playing a key role in the superordinate-subordinate relationship, the model of Internal Colonialism refers to an intra-state phenomenon.

In essence, it is the *politico-economic domination of a distinct people* --distinct in language, religion, race, culture, etc.-- by another, which is in line with the essential element of classical colonialism minus their spatially removed locale, that has led to the currency of the term *internal* colonialism in interethnic literature (see e.g., Hechter, 1975; McRoberts, 1979; Mitra Das, 1978). The hallmark of internal colonialism, then, remains an objective disparity in the politico-economic well-being of the relevant groups and the subjectively perceived or alleged "exploitation" on the part of the advantaged group as the cause of the less fortunate plight of the "minorities."

The subjective dimension of *perceived* exploitation or deprivation, irrespective of the objective aspects of such allegations, is focused in socio-psychological accounts of interethnic tensions -- labelled "Relative Deprivation."

D. RELATIVE DEPRIVATION

Relative deprivation is a slippery concept. Its comparative bases may constantly change. Its contextual nature makes it problematic to operationalize. In addition, the concept is thorny because of its subjective connotations.

Relative deprivation (RD) encompasses "feelings and experiences" of deprivation, and not just *prima facie* (objectively observable) indicators of well-being. Stated differently, objective disparity between groups may be a necessary condition, but not a sufficient one, for the occurrence of relative deprivation. Such a state of deprivation moves with one's expectations and wants. It also shifts with bases of comparison. For example, it is proposed that RD can be felt as a result of comparing (a) one's present with the past, (b) one's present with the anticipated future, (c) one's present with some abstract ideal, and finally, (d) one's present with someone else's ("reference group's") present (Aberle, 1970:209-214; Gurr, 1970:24-25).

The term, relative deprivation, is said to have been originally coined by Stouffer and his colleagues (1949:125) in *The American Soldier*, which is based on many of the large scale social psychological studies of the "American" army, carried out during the Second World War (Runciman, 1966:10; Theoderson, 1969). Stouffer *et al*, however, did not give a rigorous definition of relative deprivation. But, as Runciman notes (p.10), the sense of the concept is easily forthcoming: It stems from the gap between one's expectations and achievements, particularly when comparing oneself with "others in the same boat" (Stouffer, 1949:251). The idea of relative deprivation, Stouffer *et al* acknowledge, has a "kinship to ... such well-known sociological concepts as 'social frame of reference,' 'pattern of expectation,' or 'definition of the situation.'" One may add, there are also obvious similarities between Homans's idea of "social justice" (1961) and the concept of relative deprivation.

The notion of relative deprivation (RD) has been refined in book-length studies by Runciman (1966) and Gurr (1970). Gurr defines RD as "actors' *perception of discrepancy* between their value expectations and their value capabilities." "Value expectations are the goods and conditions of life to which people believe they are rightfully entitled," and "value capabilities are the goods and conditions they think they are *capable* of getting and keeping" (p. 24). Three things are underscored in this definition: (a) perception of discrepancy, (b) rightful entitlement to expected ends, and (c) capability of fulfilling those expectations. Actor's *perception* of discrepancy is stressed because it is realized that "people may be subjectively deprived with reference to their expectations *even though* an objective observer might not judge them to be in want" (p. 24, emphasis added). The obverse of the above proposition is also true as is recognized in the literature on poverty. Some people may be classified as living in poverty --objectively determined state of relative deprivation-- but may not suffer from any *feeling* of relative deprivation.[9]

All of these assertions point to the *relative* nature of sentiments of deprivation. The extent of deprivation varies in people, as Stouffer *et al* note, "depending on their standards of comparison (p.125). Hence, "[relative] deprivation ... is not a particular state of affairs, but a difference between an anticipated state of affairs and a less agreeable actuality" (Aberle, 1970:209).

---

[9] In the words of Whyte (1965), "Whereas objective poverty is relative deprivation defined by community standards, subjective poverty is experienced relative deprivation, defined in terms of individual values rather than shared norms."

Also emphasized in Gurr's definition of relative deprivation are *rightful* entitlement to their expectations and *capability* of fulfilling their expectations. These emphases are there to underline the realistic and practical nature of their desires as contrasted with possibly unrealistic and ideal (utopian) ambitions one may aspire to harness.[10]

Relative deprivation, thus conceptualized, may be experienced both at an individual and a group level, Aberle dichotomizes as "*personal* and *group* or *category* experiences" (p. 210). Runciman talks of "the frequency of relative deprivation" as "the proportion of a group who feel it" (p. 10). Gurr synthesizes the two when he talks of the "scope" of relative deprivation as a continuum ranging from a "narrow" one, "affecting few people at any given time," to a "wide" one, involving "whole groups, or categories of people" (p. 29).

Relative deprivation may also vary in "magnitude", reflecting the extent of the difference between the desired situation and that of the actor desiring it and the "degree" or "intensity with which it is felt" (Runciman, 1966:10; Gurr, 1970:29).

---

[10] Hoselitz and Willner (1962:363) make a useful distinction between expectation and aspiration:

> Expectations are a manifestation of the prevailing norms set by the immediate social and cultural environment. Whether expressed in economic or social terms, the basis upon which the individual forms his expectations is the sense of what is rightfully owed to him. The source of that sense of rightness may be what his ancestors have enjoyed, what he has had in the past, what tradition ascribes to him, and his position in relation to that of others in society. Aspirations, on the other hand, represent that which he would like to have but has not necessarily had or considered his due....

Relative deprivation occurs in a variety of ways. Three major forms identified by Gurr (pp. 46-57) are "aspirational deprivation," "progressive deprivation," and "decremental deprivation." *Aspirational* deprivation results from the disappointment a people suffer after their hopes and expectations that had been unrealistically elevated are frustrated. This is the case often mentioned as the revolution of rising expectations. *Progressive* deprivation is felt when after some steady progress and achievement by the oppressed group, for whatever reasons, there is a sudden slump. It is often associated with revolutionary movements and is also referred to as the "J-curve hypothesis" by Davies (1962). According to this hypothesis, "revolutions are most likely to occur when a prolonged period of objective economic and social development is followed by a short period of sharp reversal" (p. 6).

Finally, *decremental* deprivation stems from a loss of position, as for example, when one recalls one's own superior past. "Men in these circumstances are angered over the loss of what they once had or thought they could have [had] ..." (Gurr, 1970:46).

In Canada, the French Canadians are viewed as suffering from all three of these relative deprivation patterns (Vallee, 1975:193-194) resulting in a conflictful society requiring accommodation and concession on the part of the conflicting parties. One of the remedies for the inherent difficulties of adjustment in such a conflictful (plural) society has been identified as "consociationalism."

E. CONSOCIATIONALISM

Consociational "theory" is more of a strategy to manage the differences in a plural society rather than an attempt to describe or explain the nature of interethnic conflict. The literature on consociationalism and other synonymous/related terms like "segmented pluralism," "concordant democracy," "politics of accommodation," and "consociational democracy" dates back to only 1960's (Lijphart, 1979:499; Lorwin, 1971; McRae, 1974). However, the spirit of consociationalism goes back to ancient history[11] (cf. McRae, 1979b).

The essence of consociationalism is two-pronged: it is not just tolerance of diversity (as would be the case in any doctrine of plural*ism*) but is also the advocacy of bringing the diverse elements to share the very power structure (government) of the society. According to Arend Lijphart (1969; 1971), one of the forefathers of the consociational school, consociationalism --as the opposite of majoritarian rule-- has four basic principles: "grand coalition, mutual

---

[11] Speaking at a banquet at Otis, on the Tigris River, in 324 B.C., to celebrate reconciliation with his Macedonian veterans, Alexander the Great is recorded to have envisaged a concord and "partnership in government" for Macedonians and Persians (Morris, 1967:123-124).

veto, proportionality, and segmented autonomy." Grand coalition and segmented autonomy, among them, are the two most important complementary elements. "*Grand coalition* means that the political leaders of all segments of plural society jointly govern the country. It may also be called the principle of power sharing. This joint and consensual rule contrasts sharply with the government-versus-opposition pattern of majority rule." The principle of *segmented autonomy*, on the other hand, "may be characterized as minority rule over the minority itself in matters that are the minority's exclusive concern." *Mutual veto* guarantees that the minority "will not be outvoted by the majority when its vital interests are at stake." And finally, "*proportionality* serves as the basic standard of political representation, civil service appointments, and the allocation of public funds."

The success of consociational government rests, *inter alia*, upon four essential and five facilitating conditions (Lijphart, 1968; 1969). The four prerequisites for the workability of the consociational approach envisage that the elite (a) must recognise the danger of fragmentation, (b) have the necessary commitment to maintaining the system, (c) have the ability to transcend group differences to work with others, and finally, (d) have the capability of negotiating acceptable solutions (*amicabilis compositio* or amicable agreement, *à la* Lehmbruch, 1967).

In addition to these *necessary* elements for the successful operation of consociationalism, Lijphart (1969) adds a few conducive adjuncts. These favorable conditions include distinct lines of cleavage in the plural society, balance of power among the subcultural groups, and popular acceptance of the principle of government by elite cartel by the members of the "society." Lijphart also mentions "external threat" and "a relatively low total load on the decision-making apparatus" (emphasis removed).

In Canada, segmentation lacks sharp delineation. Notwithstanding a predominantly French speaking and Roman Catholic Quebec, which presents a case of overlapping and reinforcing cleavages, the rest of Canada presents a confused pattern of segmentation (McRae, 1974).

F. SUMMARY

These theoretical orientations to interethnic tension have one common denominator, namely, clash or conflict among various ethnic groups. However, the source of tension is located differently by different schools of thought.

In *"conflict theory,"* interethnic clash is pronounced on account of economic disparities between them. The "structure of power" in a society is held responsible for providing discrepant "opportunities" to satisfying material interests. "Tug-of-war" in the conflict model therefore results between estranged parties where, in the words of Cohen, "the goals of one group are pursued in such a way as to ensure that the goals of another group cannot be realized." And, "struggle occurs when action is taken to remove the source of conflict by reducing the power of another party, or by eliminating another party from the conflict situation" (Cohen, 1973:184-185).

Internal colonialism, too, reflects a struggle between the dominant (ruling) group and the subordinate (or the dominated) people. This domination, however, is not restricted to the economic sphere; it permeates other walks of life as well. The Internal Colonialism model particularly involves the political, economic, cultural, religious, and linguistic spheres to varying extents at different places at different times.

Relative Deprivation, like Internal Colonialism, points to the existing disparities, (particularly politico-economic ones), between various ethnic groups. However, the emphasis in this thoughtway is on the *"felt"* disparity, which means that existence of objective disparity may not be a sufficient condition for the development of relative deprivation. Thus, the Relative Deprivation model is not of the same conceptual order as those of Internal Colonialism and Conflict ones. Whereas Relative Deprivation is a social psychological model, the other two are "structural." Whereas the "felt" relative deprivation may either condition, or result from, structural group relations, the Colonial Model and the Conflict perspective refer to the structures of group relations *per se*.

In the *cultural* mode of explaining interethnic rivalry, we are reminded of normative cultural differences among these groups. In this perspective the strong desire of an ethnic group to safeguard its separate identity in the face of possible extinction emerges as the chief source of contention in interethnic conflict.

Finally, *consociationalism* represents a political strategy of adapting to contentious relations. It portends the possibility of containing the brewing antagonism and suspicion among the groups of people that constitute a state.

These theoretical approaches to the study of interethnic conflict can be adapted to ethnolinguistic tensions *to the extent that ethnic groups are linguistically defined*. The salience of language as an ethnic marker may vary across time, and from one group to another, however. Language would then be seen playing a pivotal role in the dynamics of interethnic rivalry. The "conflict perspective" may, for example, see lack of recognition and official practice of a language as a lever whereby the "power structure" may "tilt" the balance of opportunities provided to different groups. The "subculturalists" would interpret the tension as stemming from the concomitants of language differentiation. Different styles of life, modes of thinking, and manners of handling novel situations, together with differential levels of ambitions and preferences may be associated with different ethnolinguistic groups. These differences would then be pointed at as the underlying ferment of ethnolinguistic tension. A subscriber to "internal colonialism" model would tend to see the disparity between the achievements of two language groups as resulting from "exploitation" of the dominated (lower status) group by the dominant (higher status) one. This model is likely to be used not only in multi-ethnic but also multi-racial situations, often characterized by the ideologies of "melting pots." For the "relative deprivation" theorist, the precipitation of strife hinges on the degree of "felt" discrepancy between the lots of various ethnolinguistic groups. Such theorists would tend to equate an observed clash between such language groups as an indication of a sense of deprivation *relative* to other. Relative Deprivation may be seen as particularly relevant to "action-oriented" explanation of the conditions under which interethnic conflicts are likely to transform into social movements. Finally, "consociationalists" would advocate accommodation and negotiated settlement of disputes through recognizing language groups, more or less as equipotent members of a society.

However, the relevant theories are general views on *interethnic* relations and therefore severally need not be exhaustive in explaining the dynamics of *ethnolinguistic* tensions in all situations. Moreover, the possibility of interaction among these orientations cannot be ruled out (cf. Yinger, 1983). Further, there may be other explanations which though not totally independent of these thoughtways, may yet be analytically distinct. Therefore in this study we have chosen not to "use" any of these theories. This freedom from analysing within the framework of a specific thoughtway is deliberate. We have wished to remain unfettered of a particular theory, even at a risk of scientific precision, to afford ourselves the "luxury" or the "hazard" (as the case may be) of viewing the "total picture." Such a holistic approach, we agree with some others (like Brazeau and Cloutier, 1977; and Panelosa, 1981), is useful, even necessary, for the understanding of ethnolinguistic conflicts, for the discipline is still in the formative stage. Also, it will become apparent during the course of history that no single or two models may exclusively explain Franco-English relations in Canada.

Nonetheless, to the extent that theoretical orientations help in illuminating history, while examining events in the Franco-English ethnolinguistic rivalry, we have also looked for a variety of contexts in which these models may apply. The summary sections of the succeeding chapters hence present tentative theoretical analyses.

III. SOME METHODOLOGICAL PRELIMINARIES

In this chapter we discuss (a) the adoption of an appropriate research strategy, (b) the adequacy of the sources used in the present study to find answers to our research questions, and (c) the suitability and handicaps of "historical research."

A. ON RESEARCH STRATEGY

Textbooks on research methodologies generally identify three main streams of research orientations, *viz.*, "exploratory," "descriptive," and "hypothesis testing." Whereas *exploratory* research is devoted to gaining some familiarity with the research problem, *descriptive* research is primarily geared to a narration of facts. The hall-mark of descriptive-cum-exploratory research is that while it examines and describes facts as they may be, it develops a better "feel" for the subject-matter and engenders some "understanding." This mode of research does not test any specific hypotheses; it does not demonstrate the veracity of any generalized claims.

In view of the primarily exploratory "nature" of our curiosity, where in addition to answering some preliminary queries we wished to develop a better "understanding" of the relatively unexplored area rather than offering to test some preconceived specific hypotheses, the best approach seemed to be a careful review of relevant literature.

The choice of "relevant" material was guided by the two-fold thrust of the study which was designed primarily to *describe* the changing legal status of official languages in Canada and secondly to seek an interpretation of such a development in light of Canadian socio-historical background. We therefore decided to scrutinize the following documentary literature:

1. Archival documents containing the constitutional ruling on provisions on languages in Canada.
2. Language laws enacted by the British, and the Canadian federal and provincial governments.
3. Legislative proceedings connected with the enactment of language laws.
4. Judicial proceedings and decisions trying breach of language laws, orders-in-council, or executive decisions, or challenges to their very constitutional validity.
5. In addition, we decided to examine critically some secondary sources -- chiefly the official reports prepared by various Royal Commissions, and the legal, political, historical, and sociological scholarly commentaries on the subject-matter.

B. ON HISTORICAL APPROACH

Historical analysis, *per se*, has generally been criticized for lack of scientific rigor and objectivity. It has been argued that "historical explanations"[12] are invariably "overdetermined" (Kaplan, 1971), "incomplete," and "subjective" (Passmore, 1958), that they point to possible truths and not the truth (Kaplan, 1971; Walsh, 1961) and hence, their explanatory power is at best "plausible" but not predictive or certain (Donagan, 1964; Kaplan, 1971). As Kaplan (1971:67-68) puts it:

> Since we can never specify all the relevant frameworks and since we can never acquire all the information necessary to arrive at a conclusion, in particular, information contained within the privacy of a decision-maker's mind, we can never know that we have a genuine explanation; we can only know that we have something that meets some of the criteria of an explanation and some degree of confidence that this is not an artifact.

Such lack of definitiveness, it is argued, results from the open boundaries of historical pursuits with almost inexhaustible supply of information (Tilly, 1981:13), and from the reliance of historians on "sources" that "only record such facts as appeared sufficiently interesting to record." Historical interpretations, it is alleged, impose a pattern on the facts (cf. Passmore, 1958).

"Historical conclusions", it is further argued, are "ingredient conclusions," that are, truly speaking, a summary of discernible patterns which are not only "scattered through the text but ... are represented by the narrative order itself" (emphasis removed) (Mink, 1965).

---

[12] Brodbeck (cf. Mink, 1965) corrects and Kaplan (1964) agrees that, strictly speaking, we should talk of "explaining of historical events" rather than "historical explanation."

"Historical inferences" are discerned patterns rather than "entailed conclusions" (Kaplan, 1964:368). Hence, these conclusions are "exhibited," and not "demonstrated," from the body of historical narrative.

Two strands of arguments are discernible from these overlapping objections to the truth-value of historical discourse. One line of attack questions the credentials of historical accounts for qualifying as a rigorous "science," a science that may predict known/knowable consequences from controlled/controllable antecedents, if not with certitude, at least with specifiable probability. We accord with this line of criticism. However, we disagree with a second type of contentions that may deny history the status of factual, descriptive information that may point to some plausible inferences. In other words, with Passmore (1958), we would defend the *descriptive* utility of historical treatments, provided of course, recognized and reliable methods are employed (Walsh, 1961) and the generalizations are "tethered to reality by verification of the facts, as in any natural science" (Berlin, 1960).

This lower level of scientific precision was in consonance with our research objectives. We did not propose to test any specific hypotheses. We wished to explore the subject-matter to gain insight through a descriptive account. This objective is recognizedly fulfilled by an historical survey, which affords "deeper and wider perspectives" (Kaplan, 1971:95).

C. ADEQUATE SOURCES

The reliability of our discourse inheres in the narrow, factual nature of our query, *viz.*, a description of the legal status of official languages in Canada. The non-problematic and factual "nature" of this query would tend to exclude an element of bias. However, in interpreting the development of legal status of French and English languages in Canada and the attendant ethnolinguistic tension, one could expect differences of opinion based on sheer ideological bias, or, resulting from honest misinterpretation of data because of selective observations. Possibilities of these kinds of biases, however, were minimized through our *conscious* effort to "triangulate" in search of relevant material, in actively seeking different viewpoints, in watching for internal consistency of narratives, and in comparing writings of French with English authors.

First of all, the search for relevant material was not confined to a single source. Instead, we tapped diverse avenues to find answers to our queries. Specifically, we examined six broad categories of sources: (a) legal texts of language laws (or laws related to language issues), (b) legislative proceedings accompanying formulation of laws, (c) judicial decisions trying breach of language laws or challenging their very constitutionality, (d) archival documents[13] containing official, governmental correspondence, (e) reports prepared by various Royal Commissions[14] (and their subsidiaries),[15] instituted from

---

[13] Constitutional documents have been consulted and heavily used in the Franco-English ethnolinguistic rivalry in the

---

[13] (cont'd) pre-Confederation era. It is worth noting that in our chapter dealing with this period --*From Capitulation to Confederation*-- for facility of reference, we have cited the following archival documents merely by referring to the names of their compilers:

Arthur G. Doughty and Duncan A. McArthur (eds.)
DOCUMENTS RELATING TO THE CONSTITUTIONAL
HISTORY OF CANADA 1791-1818
4 GEORGE V. SESSIONAL PAPER NO. 29c
Ottawa, 1914

Arthur G. Doughty and Norah Story
DOCUMENTS RELATING TO THE CONSTITUTIONAL
HISTORY OF CANADA 1819-1828
Ottawa, 1835

William Paul McClure Kennedy (ed.)
DOCUMENTS OF THE CANADIAN CONSTITUTION 1759-1915
Published: 1918

William Paul McClure Kennedy (ed.)
STATUTES, TREATIES AND DOCUMENTS OF THE
CANADIAN CONSTITUTION 1713-1929
Oxford University Press, 1930

Adam Shortt and Arthur G. Doughty
DOCUMENTS RELATING TO THE CONSTITUTIONAL
HISTORY OF CANADA 1759-1791
CANADIAN ARCHIVES, 6-7 EDWARD VII,
SESSIONAL PAPER NO. 18 (2 volumes)
Ottawa, 1918

Likewise *Durham Report* has been referred to by citing the name of its compiler, Lucas.

[14] For example:
Royal Commission on Bilingualism and Biculturalism
Royal Commission to Inquire into the Organisation of the Civil Service Commission
Royal Commission on Administrative Classification in the Public Service
Royal Commission on Government Organisation
Gendron Commission report
Civil Service Commission (Heeney) Report
Durham Report

[15] Like the research report submitted to the Royal Commission on Bilingualism and Biculturalism by Claude-Armand Sheppard, titled: *The Law of Languages in*

time to time by various governments, and finally, (f) scholarly commentaries on the issues of our concern, published in different academic journals of repute.[16]

Secondly, in studying the scholarly analyses in the above sources, particularly in the works of academics, a deliberate effort was made to expand our horizon by refusing to confine our search to the works of historians or sociologists alone. Instead, our perusal included the writings of political scientists (Bakvis, Brady, Forsey, Fox, Lijphart, Mallory, McRae, Mullins, Raynauld, Ward), economist (Migué), students of Canadian Studies (Dupré, Weiler), and above all, students of law (de Mestral, Fraiberg, Honsberger, Magnet, Marx, McWhinney, Scott, Sheppard) -- in addition, of course, to historians (Cook, Morton, Wade) and sociologists (Breton, Cappon, Elliott, Legendre, Vallee).

---

[15](cont'd) *Canada*.

[16] To cite a few:

Canadian Ethnic Studies
Canadian Historical Review
Canadian Journal of Economics and Pol. Sc.
Canadian Journal of Political Science
Canadian Public Administration
Chitty's Law Journal
Ethnic and Racial Studies
Manitoba Law Journal
McGill Law Journal
Osgoode Hall Law Journal
Political Quarterly
Queen's Quarterly
Revue Générale De Droit
Revue Juridique Thémis
The Canadian Bar Review
Toronto University Faculty of Law Review
University of New Brunswick Law Journal

Thirdly, we made a conscious effort to seek *consistency* in our examined literature. This involved a threefold exercise: (a) looking for internal consistency in the writings of an author, (b) watching for inter-disciplinary consistency in the accounts of students with different scholastic affiliations, and (c) tallying academic interpretations with governmental and archival reports on the one hand, and the legislative and judicial verdicts on the other.

Finally, our endeavor to weed out an ethnic bias in our examined interpretations called for consistency in the writings of Anglophone and Francophone accounts. In this, our rigor had to be confined to those works of Francophone authors that were either written in English by the Francophone scholars themselves,[17] or else, that were available in English translation.[18]

---

[17] For example:
Michael Behiels
Paul Cappon
Armand L.C. de Mestral
J. Stefan Dupré
Léon Dion
Jean C. Falardeau
Jacques Henripin
Camille Legendre
Jean-Marc Legér
René Lévesque
Jean-Luc Migué
Claude-Armand Sheppard
Pierre Elliott Trudeau

[18] Like those of:
Olivar Asselin
Pierre Beaudoin
Errol Bouchette
Henri Bourassa
Léon Dion
François-Xavier Garneau

D. SUMMARY

In view of the exploratory nature of this study designed to *describe* the evolution of legal status of official languages in Canada in the context of socio-political history of the country we decided to focus primarily on the legal documents and secondarily on scholarly commentaries related to the subject.

The "historical approach," it was decided, suited our research objectives. We were not testing any specific hypotheses. On the contrary, the exploration was aimed to be unfettered of theoretical limitations.

The reliability of our study must rest on consistency of our findings from diverse sources. Examination of comparative evidence has been recognised as a means of dispelling distortions, and of attaining objectivity in the social sciences (Kaplan, 1971:109). In the process of "understanding" the ethnolinguistic conflict along with the development of legal status of French and English in Canada, we drew upon a variety of sources, which included, it bears repetition, reprints of original official documents reproduced in archival compilations, legal enactments, judicial decisions, legislative testimony, administrative reports, and finally, professional scholarly commentaries.

---

[18] (cont'd) Mgr L.-F.-R. Laflèche
Fernand Ouellet
Mgr L.-A. Pâquet
Etienne Parent
Pierre Elliott Trudeau
Manon T. Vennat

Scholarship in the printed work, in turn, was sought across disciplines -- in the writings of anthropologists, business and public administrators, economists, historians, lawyers, political scientists, psychologists, and sociologists.

Since the legal documents were available in English in addition to French language, the lack of a working knowledge of French was not considered a *serious* handicap. However, the secondary sources of information contained in scholarly commentaries were not all available in both the languages. This handicap --in retrospect-- is not considered serious enough to jeopardise a dispassionate look at the legal aspect of bilingualism in Canada, first, because of the narrow legalistic focus of the inquiry, and second, the writings of the French scholars --originally written in English, or later translated into it-- do not substantively depart from those of the Anglophone scholars.

In the final analysis, the *consistency* of our findings in such diverse sources, and across disciplines, we believe, underscore the reliability of our study.

IV. FRANCO-ENGLISH ETHNOLINGUISTIC TENSION: FROM CAPITULATION TO CONFEDERATION

A. FROM CAPITULATION TO CESSION: THE MILITARY RULE

The history of French-English discord in Canada is as old as their congregation in America. The French[19] have been protective of their separate identity from the time of surrender to the British forces that replaced them as new colonial masters in North America. At the time of conquest around 1760, French numbered between 70,000 and 80,000 inhabitants who had descended from approximately ten thousand settlers who immigrated between 1608 and 1760, and a majority of whom resided in rural parishes on each side of the St. Lawrence valley. It was a homogenous group whose members shared common values and the same religion and language (Henripin, 1973:157; Legendre, 1982:5; Morf, 1976:77). The official use of the French language in the colony was obviously uncontested. As contrasted with the large French population, the British consisted only of 30,000 sailors and 9,000 soldiers (Morf, 1976:77).

The British captured Quebec on 13 September, 1759 and Montreal in 1760. The capture of Quebec and Montreal was completed by *Articles of Capitulation*, signed by the French and the British. It appears that these Articles were sealed in the French language *only*,[20] and represented "the French terms of surrender to the British" (Kennedy, 1918:6). These documents do not specifically deal with the status of the French language under British occupation. "The free exercise of the Roman religion," however, was expressly granted by the British,[21] as also "the possession" of the inhabitants' "houses, goods, effects, and privileges."[22] Whether "privileges" included any special linguistic rights is, however, dubious. Also, to the demand that

---

[19] To spare monotony, in this study, we have used different labels --French, French Canadians, Francophones, *Canadiens*-- to refer to the same people: the French who opted to stay in Canada after British occupation of North America, as well as the descendants of these Frenchmen and others, later, French-speaking immigrants.

> the French Canadians shall continue to be governed according to the custom of Paris, and the Laws and usages established for this country, and they shall not be subject to any other imposts than those which were established under the French Dominions,

the British gave a cryptic answer: "They become Subjects of the King"(Shortt and Doughty, 1918:34). Although one could argue that "the Custom of Paris, and the laws and usages established for this country" may be deemed inclusive of French language rights, their grant or refusal is suspect with the British answer, "They become Subjects of the King." The British, however, did grant the retention of official French documents *vide* Article XLV of *Articles of Capitulation* of Montreal.[23] And these documents --*all in French*-- were not only preserved but were also applied in the administration of justice under British rule.

---

[20] According to Shortt and Doughty (1918:5),

> the French text of the Articles of Capitulation being the official one, there is no authoritative English version. The English text ... follows that contained in "Capitulations and Extracts of Treaties Relating to Canada," ... which corresponds to the French text there given. This version ... is practically identical with that contained in Knox's "Historical Journal of the Campaigns in North America," vol. II, p. 87, as also in the "Annual Register" for 1759, p. 247.

[21] As per Articles VI and XXVII of *Articles of Capitulation* of Quebec and Montreal, respectively (Shortt and Doughty, 1918:1-36).

[22] As per Article II of *Articles of Capitulation* of Quebec:

> That the inhabitants shall be preserved in the possession of their houses, goods, effects, and privileges. [The British responded:] "Granted, upon laying down their arms."

An historical illustration of the scrupulous deference to the French precedent "may be found in the records of the Montreal Court of Officers for August 22, 1762. On that day the Court annulled one of [Governor of Montreal] Gage's recent decrees because it conflicted with a judgement delivered by a French judge in Montreal six years before the surrender of the country" (Burt, 1933:36).

Not only the French legal documents but also the French *language* appeared to be the 'order of the day' in the administration of justice. Proceedings in the courts were conducted in the French language *as a rule* rather than an exception. Bailiffs, clerks, and other court officials were French. In fact, in those earlier days of capitulation the French language was respected in the courts to such an extent that an "Englishman named Anderson who was sued by a Canadian in the Quebec court in September, 1761, had to ask for a copy of the case against him that he might get it translated into English. The judges, his own countrymen, granted his request but ordered him to submit his replies *in French, for that was the language of the country*" (italics added)(Burt, 1933:35). Thus, the French language was not treated just at par with English, it actually enjoyed a paramount status in the courts, unless both the parties were English-speaking (Burt, 1933:35).

---

[23] As per article XLV:

> The Registers, and other papers of the Supreme Council of Quebec, of the Prévoté, and Admiralty of the said city; those of the Royal Jurisdictions of Trois Rivières and of Montreal; those of the Seignorial Jurisdictions of the colony; minutes of the Acts of the Notaries of the towns and of the countries; and in general, the acts, and other papers, that may serve to prove the estates and fortunes of the Citizens, shall remain in the colony, in the roles of the jurisdictions on which these paper depend.

A careful survey of the period indicates that the recognition of the French language was not restricted to the judicial branch of the government. That it permeated the executive and the legislative functioning as well, is evidenced in the following instances:

1. General Murray, the British Commander-in-Chief in Quebec issued on 16 January, 1760, under his signatures a commission -- *addressed in the French language*-- to Monsieur Jacques Allier, appointing him as a civil and criminal judge (Shortt and Doughty, 1918:36-37).
2. General Amherst, "Field Marshal, C-in-C of the troops and forces of His Majesty the King of Great Britain, in North America," issued on September 22, 1760, under his signatures, a "placard" *in the French language*,

notifying the appointment of Gage and Burton as Governors of Montreal and Three Rivers and its dependencies, respectively (Shortt and Doughty, 1918:38-41).

3. The ordinance that established military courts in Quebec, issued on 31 October, 1760, under the signatures of Governor Murray, was *in French* (Shortt and Doughty, 1918:42-46).
4. Governors Gage, Burton, and Murray, each appointed a *French-speaking* Swiss as his secretary presumably to deal with the new British subjects in the French language (Sheppard, 1971:12).
5. The Quebec *Gazette*, an organ of the official publications to this date, first published on June 21, 1764, appeared in both languages (Sheppard, 1971:13).
6. The Earl of Egremont, the British Secretary of State, in a dispatch to Amherst, dated December 12, 1761 conveyed the King's approval "of the general system of justice and administration established" in North America (Shortt and Doughty, 1918:42), together with an "enjoinder to the Governors that they issue strict orders to the British personnel forbidding them to insult the language, dress, customs, and country of the inhabitants" (Sheppard, 1971:12-13),

Thus from the time of the military conquest (Capitulation of Quebec in 1759, and Montreal in 1760) to the formal cession of the North American colonies to the

British by the *Treaty of Paris* in 1763,[24] we notice uninhibited use of French language under the British administration, particularly in the administration of justice. This "benevolent" posture (Legendre, 1982:6) of the Imperial authorities, that might have been necessitated on account of a very expensive alternative proposition of garrisoning the newly conquered colony with sufficient military might (Morton, 1981:7), however, shifted with the signing of the Paris agreements. As we shall see, however, the tough stance which the English then adopted was contested by the French inhabitants, particularly with respect to freedom of language, religion, and civil law.

B. THE TREATY OF PARIS AND THE INSTITUTION OF CIVIL GOVERNMENT IN CANADA

The *Treaty of Paris*, (like *Articles of Capitulation* of Quebec and Montreal), was silent with respect to the status of the French language in Canada. Nor was there any mention of French civil law. It however granted "the liberty of the Catholick[25] religion to the inhabitants of Canada ... [albeit, with the proviso,] *as far as the laws of Great Britain permit.*" The British were, however, demanding a virtually unacceptable price for this freedom, as we shall see in the following pages.

---

[24] The *Treaty of Paris*, signed on February 10, 1763, itself was entered into between Great Britain, France, and Spain, *in the French language* (Shortt and Doughty, 1918:97-112).

[25] Old English spellings and syntax have been retained, here as well as later in the quoted material, to preserve the "flavor" of a bygone era.

In the aftermath of the Definitive Treaty of Peace, concluded on 10 February, 1763, the British monarch issued a proclamation on 7 October, 1763 --commonly known as the *Royal Proclamation*-- whereby a civil government was instituted in Canada.

The British government's internal deliberations pertaining to the institution of a civilian regime in the newly ceded territory reveal a shift in the previous attitude of the Imperial masters from that of benignity and understanding for their subjects to one of calculated concessions, camouflaging the intentions of assimilation and anglicization of Francophones.

Perusal of the official documents of the time reveals that the Imperial government in Great Britain were launching a three-pronged strategy to assimilate the *Canadiens* by

1. devising means to increase the English population in Canada;
2. effecting religious assimilation of the Roman Catholics through
   a. their exclusion from the government on the one hand, and
   b. the propagation of Protestantism on the other; and
3. by substituting English laws for the French.

On the matter of the composition of the population, the Lords of Trade (an advisory body) cautioned the British Secretary of State Egremont that

> the new Government of Canada ... will ... contain within it a very great number of French Inhabitants ... and that the Number of such Inhabitants must greatly exceed, for a very long period of time, that of your Majesty's British and other Subjects who may attempt Settlements ... [therefore] the Chief Objects of any new Form of Government to be erected in that country ought to be to secure the ancient Inhabitants in all the Titles, Rights and Privileges granted to them by Treaty, *and to increase as much as possible the Number of British and other new Protestant Settlers* ... [emphasis supplied, Shortt and Doughty, 1918:142].

It is noted that the aforementioned policy-directive was endorsed by the King, as was reported in Egremont's reply to the Lords of Trade (Shortt and Doughty, 1918:148).

On the subject of religion, Egremont delimited the British Government's intentions to Murray, the prospective Captain-General and Governor-in-Chief for the Government of Canada. Murray was alerted to intelligence reports leading to suspicions that under the influence of priests the French Canadians may be disposed to sustaining their affinity for France under the pretext of liberty of the Roman Catholic religion and thus might attempt to recover Canada for France. The Governor was further informed that in the negotiated Definitive Treaty the French Ministers had insisted on inserting the words, "*comme ci-devant*, in order that the Romish Religion should continue to be exercised in the same manner as under their Government," but were bluntly denied. Article 4 of the Treaty, instead, had permitted religious freedom expressly "*as far as the Laws of Great Britain permit*, which Laws prohibit absolutely all Popish Hierarchy in any of the Dominions belonging to the Crown of

Great Britain, and can only admit of a Toleration of the Exercise of that Religion ..." (Shortt and Doughty, 1918:168-169). Britain's disfavor of religious freedom they had granted to Roman Catholics in Canada was also obvious in the "Commission" sent to Murray on November 21, 1763, that conferred upon him the position of Governor-in-Chief in Canada. By the terms of Murray's Commission, the Members of the Executive Council, the courts of the judicature, and the General Assembly were required to be administered oaths that included written declarations against popery. French Canadians, being Roman Catholics, were thus effectively barred from participation in the new government.

British intentions of religious assimilation were further exposed in the express instructions, the King sent to Murray on December 7, 1763 asking for ways and means whereby "Protestant Religion may be promoted, established and encouraged."[26]

---

[26] Instructions to Marray were clear:

> You are not to admit of any Ecclesiastical Jurisdiction of the See of Rome, or any other foreign Ecclesiastical Jurisdiction whatsoever in the Province under your Government.
>
> 33. And to that End that the Church of England may be established both in Principles and Practice, and that the said Inhabitants may by Degrees be induced to embrace the Protestant Religion, and their Children be brought up in the Principles of it; We do hereby declare it to be Our Intention, when the said Province shall have been accurately surveyed, and divided into Townships, Districts, Precincts or Parishes, in such manner as shall be hereinafter directed, all possible Encouragement shall be given to the erecting Protestant Schools in the said Districts, Townships and Precincts, by settling, appointing and allotting proper Quantities of Land for that Purpose, and also for a Glebe and Maintenance for a Protestant Minister and Protestant

Finally, assimilation of the *Canadiens* was sought by changing the legal system: from French to the British. The civilian government headed by the King's representative was authorized to institute legislative and judicial bodies to formulate laws "as near as may be agreeable to the Laws of England," and to adjudicate in "all Causes, as well Criminal as Civil, according to Law and Equity, and as near as may be agreeable to the Laws of England." Since Murray did not receive the Commission and the Instructions, nor were they made public until August 4, 1764 no reaction was immediately forthcoming. Moreover, as we shall see in the next section, Murray's pragmatic approach elicited adverse reaction from both the aggressive British numerical minority and the teeming number of French Canadians.

The Ordinance of September 17, 1764

Under the authority of the *Proclamation*, Governor Murray issued an ordinance that established a Supreme Court of Judicature and an inferior one: the *Court of Common Pleas*. The Superior Court was presided over by "His Majesty's Chief Justice ... with Power and Authority to hear and determine all criminal and civil causes, agreeable to the Laws of England, and to the Ordinances of this

---

[26] (cont'd) School-Masters; *and you are to consider and report to Us*, by Our Commissioners for Trade and Plantations, *by what other Means the Protestant Religion may be promoted, established and encouraged in Our Province under your Government* [Shortt and Doughty, 1918:191-192, emphasis supplied]

Province." However, departing from the *letter* of the *Proclamation* and the *Commission* and *Instructions* to the Governor, Murray established an inferior court, exclusively for the *Canadiens*. The institution of an inferior court --*the Court of Common Pleas*-- was meant to facilitate smooth transition from French to English laws, for French Canadians were not only unfamiliar with the laws of England but also with the English language itself. In this inferior court, for the time being,

1. The judges could decide cases "agreeable to Equity," and with *mere* "Regard ... to the Laws of *England*, as far as the Circumstances and present Situation of Things will admit, until such Time as proper Ordinances for the Information of the People can be established by the Governor and Council, agreeable to the Laws of *England*". (Shortt and Doughty, 1918:207)
2. "The *French* Laws and Customs [were] to be allowed and admitted in all Causes ... between the Natives of this Province, where the Cause of Action arose before" October 1, 1764. (Shortt and Doughty, 1918:207).
3. *Canadien* advocates and proctors were to be allowed to practice, and could also serve as bailiffs and sub-bailiffs. (Shortt and Doughty, 1918:207-208)

Thus, the French-speaking Roman Catholics, even though efficiently barred from practicing in the Supreme Court and from being appointed as judges in either of the courts, because of the anti-popery declaration they would not make, found their way into the inferior court as lawyers and bailiffs -- a situation Murray deemed justified on grounds of lack of facility in the French language on the part of English barristers and attorneys.

Roman Catholic French-speaking Canadians could, however, also sit on the juries in the Court of King's Bench (the Supreme Court) as the Ordinance stipulated that "In all Tryals in this [Supreme] Court, all His Majesty's Subjects in this Colony ... be admitted on Juries without Distinction" (Shortt and Doughty, 1918:206). Murray's stand on this provision was both practical and political: the available Protestant Englishmen were insufficient in numbers --200 Englishmen against some 80,000 French Canadians-- as well as in qualifications, and secondly, the *Canadiens* had to be accommodated on the juries lest they should emigrate. Murray explained:

> As there are but Two Hundred Protestant Subjects in the Province, the greatest part of which are disbanded Soldiers of little Property and mean Capacity, it is thought unjust to exclude the new Roman Catholic Subjects to sit upon Juries, as such exclusion would constitute the said Two Hundred Protestants perpetual Judges of the Lives and Property of not only Eighty Thousand of the new Subjects, but likewise of all the Military in the Province; besides if the Canadians are not to be admitted on Juries, many will Emigrate; This establishment is therefore no more than a temporary Expedient to keep Things as they are until His Majesty's Pleasure is known on this critical and difficult Point [Shortt and Doughty, 1918:206].

Notwithstanding the *transient* intentions of Murray in deferring to the French laws and language, the small British minority saw the measure an obstacle in the process of

Anglicization. They therefore formally challenged the constitutionality of Murray's Ordinance before the British Government in the form of "Presentments of the Grand Jury of Quebec" on October 16, 1764 (Shortt and Doughty, 1918:212-216). The signatories to the *Presentments* included seven French-speaking jurors who apparently had been persuaded to join without thoroughly understanding the various articles of the document, as is indicated in their refutation in the "Statement by French Jurors in Reference to the ... Presentments," dated October 26, 1764. The French-Canadian jurors protested against the use of their signatures on the Presentments and defended the use of *French language* and French lawyers in the administration of justice. They pleaded that it was

> only right that the new Canadian Subjects should employ Persons whom they understand, and by whom they are understood, all the more because there is not one English lawyer who knows the French Language, and with whom it would not be necessary to employ an Interpreter who would scarcely ever give the exact meaning of the Matter in hand [Shortt and Doughty, 1918:223].

The statement by the French jurors was followed by another letter to the King, on January 7, 1765. Here, the new subjects of the King expressed their "distress" over how the English jurors "had induced" their French colleagues "to subscribe to Remonstrances in a language which they did not understand." They resented the imprisonment of their fellow citizens by those "who know neither our language nor our customs and whom it is only possible to speak, with guineas in one's hands." They were skeptical of the administration of justice through the medium of interpreters, "if those who understand neither our language nor our Customs should become our Judges" (Shortt and Doughty, 1918:228). They regretted that all of it was happening because of the vested interests of "about thirty English merchants" pitted against "ten thousand Heads of Families." Finally, the French Canadians entreated His Majesty to confirm the system of Justice which had been established for the French by the Ordinance of September 17, 1764, and to "maintain the Notaries and advocates in the exercise of their functions," to permit them to transact their family affairs in their own tongue, and to follow their customs, in so far as they were not opposed to the general well-being of the Colony, and "to grant that a Law may be published in our Language, together with the Orders of Your Majesty ..." (Shortt and Doughty, 1918:229).

Thus far, the controversy of Murray's Ordinance and its implementation seemed to be rooted in the confusion over whether or not the British Act of 1731, that recognized English as the only language of pleading and record in the Courts of England, was equally applicable in Canada. In addition, it was not clear, if various anti-Catholic laws of England requiring oaths against pope, also rendered the Roman Catholic French Canadians ineligible for responsible positions in the colony. With respect to the latter, the British Attorney General Norton and the Solicitor General DeGray opined that anti-popery laws did *not* apply to the

Roman Catholics in North America (Shortt and Doughty, 1918:236).

The British Government Orders Numerous Enquiries

The English and the Canadian representations to the Crown resulted in a number of inquiries. In one such report, submitted by the Attorney General and Solicitor General on April 14, 1766, it was pointed out that one of the two principal sources of discontent in Quebec stemmed from depriving the French of proper administration of justice by instituting new laws "in an unknown tongue" and by denying them the right to be represented by Canadian lawyers with whom they could communicate (Shortt and Doughty, 1918:252). The second cause of alarm was the misinterpretation of the *Proclamation* as intended to "abolish all the usages and Customs of Canada [immediately]." The Report recommended practice of local customs and laws in civil suits, albeit Laws of England were to be applied to the criminal cases (Shortt and Doughty, 1918:255-256).

In another report, which the *Board of Trade* submitted to the *Lords of the Committee for Plantation*, the exclusion of French Canadians from practicing in the *Supreme Court* was criticized on account of wrongful application of anti-popery restrictions. The Report was also critical of the expungement of French Laws and Customs. However, it sympathized with those Englishmen who might be one of the parties to a court case decided by an all-French-Canadian jury. Mixed juries were recommended in such situations. Further, the Report categorically suggested that (a) in all Courts, French Canadians be admitted to practice as Barristers, Advocates, Attornies and Proctors, (b) in all property cases involving litigation of events prior to the Conquest of Canada, "French usages and customs" would be admitted, and (c) "to render these provisions effectual ... *not only the Chief Justice, but also the puisne Judges should understand the French Language;* and that one of those Judges at least should be well versed in the French Customs and Usages ...." (emphasis added, Shortt and Doughty, 1918: 246).

The Ordinance of July 1, 1766

While further enquiry continued, these recommendations were soon translated into law by the Ordinance of July 1, 1766, that amended the previous ordinance of 17 September, 1764. It was now "ordained" that

1. all of His Majesty's subjects --British and "Canadian"-- were equally entitled to sit and act as jurors in both civil and criminal cases in any of the courts of the Province of Quebec;
2. in civil cases, the constitution of the jury would depend on the parties of litigation:
    a. all-British jury if both the parties were British born subjects,

   b. all-"Canadian" jury if both the parties were "Canadians", and
   c. a mixed jury of equal number of British born and Canadian subjects if the case involved both the parties; and
3. French Canadians were now "allowed to practice as Barristers, Advocates, Attornies, and Proctors in all or any of the Courts" of the Province of Quebec (Shortt and Doughty, 1918:251-252).

Francis Maseres, who was commissioned as Attorney General of the Province of Quebec on September 25, 1766, commented on the affairs of Quebec before he left for North America. In his exposition titled, "Considerations," Maseres made several points:

1. The religious freedom granted to the Roman Catholics by *Article 4* of the *Treaty of Paris* was annulled by the qualifying sentence in the same Article that reads, "as far as the Laws of Great Britain permit." Since the British laws did *not* permit such religious freedom anywhere, therefore, anti-popery laws were valid in Canada as well. Maseres further commented that any departure from such a ruling would require an Act of the British Parliament and not just a Royal assent (Shortt and Doughty, 1918:258-261).
2. Like Norton and DeGrey, Maseres, too, was convinced that the French customs and civil laws were still valid and not replaced *in toto* by the English Common Law, for "the

Laws of the conquered continue in force till the will of the conquerer is declared to the contrary." And, *à la* Maseres, such "will of the conquerer," according to the British system, could be expressed only by the British Parliament and not just by a Royal decree.

3. Maseres was also against the convocation of an elected Assembly in Quebec to itself legislate for the Province. His objection was that if the *Canadiens* were barred from being Members of such an Assembly because of their failure to make a declaration against transubstantiation then the Assembly would only by representative of 600 new English settlers, and the over 90,000 French will go unrepresented, which will be quite a disturbing event. On the other hand, if the French Canadians were allowed representation their rapid Anglicization would be in jeopardy. It would certainly result in the perpetuation of the French language and would prevent "the melting down [of] the French nation into the English" (Shortt and Doughty, 1918:267). As Maseres put it:

> [The French Canadians] are almost universally ignorant of the English language, so as to be absolutely incapable of debating in it, and consequently must, if such an assembly were erected, carry on the business of it in the French language, which would tend to perpetuate that language, and with it their prejudices and affections to their former masters, and postpone to a very distant time, perhaps for ever, that coalition of the two nations, or the melting down the French nation into the English in point of language, affections, religion, and laws, which is so much to be wished for, and which otherwise a generation or two may perhaps effect, if proper measures are taken for that purpose. (Shortt and Doughty, 1918:267)

Acting Governor of Quebec, Lt. Gen. Carleton, too, made note of the enormous disparity in numbers of English- and French-Canadian inhabitants in Quebec, a disparity that seemed to be ever-increasing,[27] and hence, threatening all chances of French Canadian assimilation into the English. In response to instructions from the Home Office, seeking a report on the administration of justice in Quebec, Carleton admitted that an abrupt transplantation of English laws for the French in "a Populous and long est'd Colony" was felt unjust and could not "long remain in force, without a General Confusion and Discontent." He therefore recommended the restoration of the "Canadian Laws almost entire" (Shortt and Doughty, 1918:290). The Governor is on record reiterating to the British Government the advisability of retaining French property laws[28] and of French-Canadian participation in public offices in order to win their loyalties.[29]

---

[27] The diminishing of French-Canadian numerical superiority seemed least probable to the Governor. For, he observed:

> The Europeans, who migrate never will prefer the long unhospitable Winters of Canada, to the more chearful Climates, and more fruitful Soil of His Majesty's Southern Provinces;...But while this severe Climate, and the Poverty of the Country discourages all but the Natives, it's Healthful is such, that these multiply daily, so that, barring Catastrophe shocking to think of, this Country must, to the end of Time, be peopled by the Canadian Race, who already have taken such firm Root, and got to so great a Height, that any new Stock transplated will be totally hid, and imperceptible amongst them, except in the Towns of Quebec and Montreal [Shortt and Doughty, 1918:284].

[28] See Carleton's letter of April 12, 1768 to Shelburne, one of the principal Secretaries of State, reproduced in Shortt and Doughty, 1918:299-301.

The Earl of Hillsborough, the then first Secretary of State for Colonies, who was a member of the Board of Trade in 1763 and who professed to be acquainted with the "Intentions of those who drew the Proclamation" disclosed to Carleton, in a letter dated March 6, 1768, that the *Proclamation* had been misinterpreted: it was not meant "to overturn the laws and Customs of Canada, with regard to Property"; it simply intended that "Justice should be administered agreably" to the inhabitants of the Colony (Shortt and Doughty, 1918:297).

On September 18, 1769, pursuant to an Order-in-Council of August 28, 1767, the Home Office received a detailed report on Quebec "concerning the State of the Laws and the Administration of Justice in that Province." The Report prepared by Attorney General Maseres again recommended that, as the language of the new subjects, French had to be taken into account in order to administer justice in the Colony.

---

[29] A secret correspondence from Carleton to Hillsborough dated November 20, 1768, states *inter alia*

> Notwithstanding ...[French-Canadians'] descent and respectful obedience to the Kings government hitherto, I have not the least doubt of their secret attachments to France, and think this will continue as long as they are excluded from all employments under the British Government, and are certain of being reinstated, at least in their former Commissions under that of France, by which chiefly they supported themselves, and families.
>
> When I reflect that France naturally, has the affections of all the people ... we have done nothing to Gain one man in the province, by making it his private interest to remain the King's Subject.... [Shortt and Doughty, 1918:325-326].

It was suggested that English judges in the Colony should have *"a competent knowledge of the French language"* (italics added). Further, these judges should be allowed French-speaking lawyers to assist them in comprehending "the nature and extent of such of the ancient laws and customs of the country" that may be allowed "to be either continued or revived."[30] And finally, the Report recommended that written pleading in the courts be permitted in either of the two languages -- English or French.[31]

Governor Carleton is said to have disagreed with the report prepared by Attorney General Maseres. So he submitted his own brief in which he reportedly recommended complete revival of the French laws with respect to civil matters, conceding, however, to the continuation of the laws of England with respect to criminal matters (Kennedy, 1918:57; Shortt and Doughty, 1918:369-370).

---

[30] Maseres recommended:

> These English judges should ... [have] a competent knowledge of the French language. And further, to enable these English judges more readily to understand the testimonies of the French witnesses, and likewise to comprehend the nature and extent of ... the ancient laws and customs of the country ... it would be convenient to give each of them a Canadian lawyer for an assessor, or assistant to them in the decision of causes: but the Canadian assessors should have no vote or authority to decide the causes in conjunction with the English judges; but should only assist them with their opinion and advice ... [Shortt and Doughty, 1918:355].

[31] The Report recommended:

> The method of proceeding in these courts in civil actions might be as follows. The plaintiff might bring a declaration or plaint, in writing, into court, which might be either in the French or English language, as he thought proper .... When the defendant appeared, he should make his answer to the plaint of the plaintiff in writing, and either in the French or English language, as he thought proper: and this answer should be filed amongst the records of the court [Shortt and Doughty, 1918:356-357].

Attorney General Maseres then submitted on September 11, 1769, his objections to Carleton's recommendations. Particularly with respect to the reintroduction of French laws in all civil matters, Maseres's exceptions[32] were threefold:

1. It would be difficult for the English judges to administer justice, for they would require "more than ordinary acquaintance with the French language to attain a thorough knowledge of those laws;
2. It would hinder in the process of anglicization, for the new subjects will be continually reminded of their former government, "which, together with the continuance of their attachment to the Popish religion" will keep them susceptible to connivance with France; and
3. The measure "will discourage your Majesty's British subjects from coming to settle here when they see the country governed by a set of laws, of which they have no knowledge, and against which they entertain ... strong prejudices" (Shortt and Doughty, 1918:372-373)

On July 10, 1769, the Board of Trade had already recommended to the Imperial government

---

[32] Maseres, however, acceded to the revival of French laws of tenure as having already granted to the French Canadians by the Articles of Capitulation of 1760, and the Treaty of Paris (1763) (Shortt and Doughty, 1918:374).

1. that the Canadians be exempted "from the obligation of subscribing to the Declaration against Transubstantiation" and thus be permitted into public service,
2. that the membership in the Council of Quebec be increased from 12 to 15, and that "not exceeding five" New Roman Catholic Subjects should be appointed members thereof, and
3. "that all criminal offences should be tried by *Juries de Medietate*, composed equally of natural born Subjects and Canadians, excepting only in Cases where a natural born subject or a Canadian stands charged with a Wilful Murder of one of the same description, in which cases the Jury to be of the same description with the person to be tried for such Offence" (Shortt and Doughty, 1918:386).

Consequently the British Government issued another ordinance "for the more effectual administration of justice, and for regulating the Courts of Law" in early 1770. The ordinance was "ordered to be translated into French" and "on February 14th ... the ordinance and translation were ordered to be published in the [Quebec] *Gazette*" (Shortt and Doughty, 1918:401). This ordinance required the filing of "a Declaration either in English or French Language" of a claim "where the Cause of Action shall not exceed the Sum of Twelve Pounds Currency" (Shortt and Doughty, 1918:408).

In the same year, 1771, the King received another petition signed by fifty nine French Canadians seeking restoration of their "Laws, Customs and regulations under which they were born," and conveyed their feelings of humiliation for being "excluded from the offices which they might fill ..." (Shortt and Doughty, 1918:421).

The King ordered further reports from advocate-, attorney-, and solicitor-general on the laws and judicature of Quebec and asked for a general plan of civil and criminal law for Canada. Consequently, Advocate-General James Marriott, submitted a detailed report summarizing the situation in Canada. With respect to language situation, Marriott acknowledged that

> in the courts of common-pleas, the proceedings are drawn up in any form or style that the parties think proper; in French or in English, as the attorneys happen to be Canadian or English born subjects ... but they are most frequently in the French language, the business of these courts ... being chiefly managed by the Canadian procurators or attornies [Shortt and Doughty, 1918:452-453].

In November 1773, French Canadians were approached to sign petitions drafted and endorsed by some prominent English inhabitants in Quebec and Montreal asking for the summoning of a general assembly of freeholders and planters. The French "refused to do so because it was in English only and they could not understand it" (Sheppard, 1971:34). They once again petitioned the King, in the French language, seeking restoration of their "ancient laws, privileges, and customs," and asking for the enjoyment of "the rights and privileges of citizens of England" (Shortt and Doughty, 1918:507-508).

C. THE QUEBEC ACT OF 1774

In an attempt to overhaul the conflict and confusion of the previous decade, the Imperial Parliament passed an Act in 1774, called the Quebec Act,[33] whereby

1. the province of Quebec was bifurcated into two judicial districts, *viz.*, Quebec and Montreal, and all the former provisions made for the Province became null and void after May 1, 1775,
2. the inhabitants were free to profess Roman Catholic religion, "subject to the King's Supremacy," but then it was also "lawful for His Majesty ...[to encourage] Protestant religion";
3. Roman Catholics were exempted from the obligation to take the anti-Popish oath;
4. "in all Matters of Controversy, relative to Property and Civil Rights, Resort shall be had to the Laws of *Canada* ... until they shall be varied or altered";
5. "the Criminal Law of England" was to be continued to be administered in Canada;
6. in view of inexpediency to call an Assembly, it provided for the constitution and appointment of a Council for the Affairs of the Province of Quebec.

Thus the *Quebec Act* which --according to historians (Morton, 1981:7; Wade, 1968:63)-- was "precipitated" by the imminent American Revolution, apparently reversed the British assimilationist policy (at least for a while) by (a) granting the *Canadiens* the whole of their ancient civil law, (b) assuring Catholics the free exercise of their religion, and (c) replacing the anti-popery oath with a new one which did not offend Catholic principles (Garneau, 1860; Legendre, 1982:6).[34] The French Canadians, who outnumbered the English in the Colony by thirty to one, were nonetheless denied official recognition of their cherished language.

---

[33] *1774, 14 Geo. III, c.83* (reproduced in Kennedy, 1918:132-136; Shortt and Doughty, 1918:570-576).

The *Quebec Act*, like the *Treaty of Paris* (1763), the *Royal Proclamation* of 1763, and the *Articles of Capitulations*, was silent on the subject of language. Not one of the eighteen articles of the *Quebec Act* entertained the status of French language in the executive, judicial, or legislative branch of the government. Sheppard (1971:36) is "inclined to believe that the Quebec Act was silent on the question of language because it had ceased to be an issue." However, the debates and the proceedings in the British Parliament on the *Quebec Act* (Kennedy, 1918:86-132) indicate that the language issue was still live and was actively contested. During cross-examination in the British Parliament, Governor Carleton testified that the King's new subjects were "extremely dissatisfied with the mode of trial" in the Court of King's Bench, partly because "all the proceedings ... [are] in a language they do not understand"(Kennedy, 1918:104). Also, while the Quebec Bill was passing through the Commons, *seigneur* Chartier de Lotbinière, made an important statement on behalf of French Canadians about "things which must of necessity be considered and definitely settled if the Bill presented for the Province of Quebec is passed." Lotbinière made a categorical demand for the recognition of French as the *sole* official language in Canada in all "public business whether in the courts of justice or in the assembly of the legislative corps ...." He argued that,

---

[34] According to Jean-Marc Léger (1960:313), even though the British had won the support of the priesthood and the upper class, "most ordinary people showed their sympathy for the Bostoners, as they were then called" and were not quelled without the application of some force.

> the French language being the general, and indeed almost the only language used in Canada, it is obvious that no stranger ... can serve them well, except as he is thoroughly versed in this language, and ... [further that] *it is indispensable that the French language should be ordered to be the only one employed in everything that deals with, and shall be settled as a public business whether in the courts of justice or in the assembly of the legislative corps* ... , for it would be a cruel thing to attempt to reduce unnecessarily almost all those interested in public affairs to the condition of never being acquainted henceforth with what shall be discussed or decided throughout the country [Shortt and Doughty, 1918:567].

Even though the *Quebec Act* was silent on the language issue and hence there were no *de jure* linguistic rights to the French, we notice that in practice both French and English languages were used in the proceedings of the *Legislative Council* from its very first session in 1777. Also, the records of the *Council* were maintained in both the languages (Sheppard, 1971:37).

By an ordinance of the *Legislative Council*, passed on March 4, 1777, it was required that all ordinances be published in the *Quebec Gazette*. Although no language of publication was specified, the records of the *Gazette* indicate that the ordinances were published in both languages (Sheppard, 1971:38).

Significantly, in the judiciary too, by "an ordinance to regulate the proceedings in the courts of civil judicature in the province of Quebec," passed on 25 February, 1777, upon presentation of "a Declaration ... setting forth the Grounds of ... Complaint against a Defendant, and praying an Order to Compel him to appear and answer thereto" judges were "*required* ... to grant a Writ of Summons *in the Language of the Defendant*" (italics added)(Kennedy, 1918:160; Shortt and Doughty, 1918:683). It is noteworthy though, Sheppard points that, the ordinance "did not specify in what language the declaration, which the plaintiff had to attach to the writ eventually issued, had to be drafted." Under the Ordinance of February 1, 1770, it may be recalled, the language of the writ was optional. On the other hand, Sheppard reminds that, "article XVII of the Ordinance of February 25, 1777, which outlined the procedure to be followed for publication of notices of sale of seized immovables in the *Quebec Gazette*, did not indicate whether bilingual publication was required. [Whereas] the Ordinance of February 1, 1770 statted that publication had to be in both languages" (p.38).

Further provisions for bilingualism in the administration of justice, after the *Quebec Act*, included:

1. The discretion of the Courts, granted by an ordinance of the *Council*, to permit the accused to have jurors competent in his language -- English or French.[35]
2. General rules of practice adopted by the Quebec Court of Appeal on 29 January, 1788, decreed that "all reasons for appeal should be in both languages" (Sheppard:1971:39).
3. Either of the two languages was used in court transactions as also in minute books and registers of the courts. However, lack of bilingual clerks and other officials was a source of confusion.[36]
4. Interpreters were made available and paid by the Government.[37]

---

[35] The ordinance passed in 1787 declared that the court had the jurisdiction

> to give the party persecuted, in any Criminal Cause, Jurors, for his trial, one half of whom, at the least, may in the judgement of the court, be completely skilled *in the language of his defence, if the same be either English or French language* ....(italics added) (1787, 27 Geo. III, c.1.)

[36] As Neatby (1937:131) states:

> French and English clerks kept their books separately. The general rule was for the case to be entered in the book kept in the language of the defendant, but in practice it was not possible to divide the court business according to language. Sometimes the clerks had to do each other's work because of absence due to sickness or other cause. Lawyers were by rule allowed to plead in either language.

[37] From 1777 to 1786 these interpreters were paid an average annual salary of 80 pounds (Neatby, 1937:333-334).

In a nutshell, *bilingualism prevailed* in a loose form with French having an edge over the English. Thus, Neatby docments that English lawyers complained that although they were frequently compelled to plead in French, their French colleagues were never asked to speak in English. Once an English defendant was forced to give evidence in his own case in French, in spite of his protest (1937:105).

An Independent America and a New Quebec: Changed Demography and Anglicization

With the victory of the thirteen American colonies south of the border and an influx of "American" immigrants to Canada with loyalties to the Government of England, the political situation in Quebec underwent a noticeable change.

Uptil 1783 the population in Quebec was overwhelmingly French and Catholic. However, with the arrival of "several thousand loyalists" from across the border the French demographic upperhand was threatened. Moreover, according to Camille Legendre, a Quebec-born sociologist, it was during this period that the *Canadiens* became an "economic minority." With the establishment of the North Western Company in 1783 the British merchants had monopolized the fur trade and they reigned in the lumber industry as well. The French were confined to "subsistence farming" (Legendre, 1982:6). The French-Canadian petite bourgeoisie, according to Fernand Ouellet (1962:52), "had neither the breadth of view nor the necessary education" to cope with the changed circumstances. The *Canadiens* failed to adapt to new conditions: "In a situation requiring a pooling of effort and capital, they had remained staunchly individualist." Etienne Parent, speaking at the *Institut Canadien*, admonished his fellow *Canadiens* for their love of sedentary occupations and for despising industry. He warned that the French-Canadians' inferior position in business and industry was due mainly to a prejudice against such an enterprise and their unwillingness to pool and share their resources. As Parent (1846:87-88) put it:

> Our natural resources --the main ingredient for social power-- are everywhere allowed to fall into alien hands. This is due to the fact that those of our people who must meet the challenge of outside competition are the least fitted for it, both in training and in capital-investment capability. But those of us who could take up such a challenge successfully would not stoop to tackle any branch of industry, and prefer to vegetate with a paltry diploma in their pocket, or to squander in a life of leisure the inheritance they might otherwise have invested to good advantage both for themselves and for their country. .... And yet, inconceivable though this may seem, we witness everyday some of our people closing down without regret --I was about to say, without a feeling of guilt-- a business that could readily serve as the instrument for the accumulation of a considerable fortune for someone else. It takes years to establish a large clientele, valuable contacts, reliable correspondents, good credit. Yet this is all sacrificed as if it meant nothing. Perhaps there are no children, no relatives; but are there not any friends who might be spared years of sweat and labour struggling on the lower rungs of the industrial ladder?

Quebec also lost its cultural homogeneity as the loyalists brought with them liberal values and ideas (Legendre, 1982:6). The immigrants, who had settled in Ontario, "disliked a status which made them part of the province of Quebec and subject of French-Canadian laws and customs" (Raddall, 1957:104). Politically, spiritually and culturally --by and large-- they were a different people.[38]

The Loyalists --as the new immigrants were called-- were not content with the appointive council. They wanted a representative assembly. A new wave of assimilationist feeling swamped Canada. The result was an inevitable power struggle between the Loyalists and the French Canadians: the former seeking an elective assembly and the restoration of English laws and the latter defending French laws and their language.

The advisability of having a policy of anglicizing the French Canadians was voiced both by the members of the relevant public as well as some government functionaries. The chief means of assimilation were suggested to be reintroducing English laws, conducting judicial proceedings in the English vernacular, and widely imparting instructions in the English language. The Montreal *Herald* in 1789, for example, copied from the *London Evening Post*, an article by Isaac Ogden, a young Quebec lawyer, who had come from New England as a loyalist and who had been associated as a legal adviser of the merchants. To anglify French Canadians, Ogden suggested that

---

[38] As Raddall (1957:104-105) put it:

> Although they were not solidly English speaking or Protestant (there were large German groups among them, and many of the Highlanders were Catholic and spoke Gaelic), their views and attitudes were those of the American states from which most of them had come. The seigneurial tenure of land in Quebec was to them a feudal monstrosity. The French measure of land was the *arpent* and the French laid off their farms in narrow ribbons running back from a river or a road. The loyalists measured by the acre and laid out their farms rectangular or square. On the spiritual side there was a profound difference in their attitude toward Caesar and God. To the French their Church was the supreme authority on earth, which did not leave them much room for obeisance to a king, especially a British king. To the devout upper-class Loyalists the King and God were a kind of Anglican partnership.

> free public schools ought to be established in different parts of the province to teach the inhabitants the English language. The laws of England ought to be introduced; and to make it the interest of the inhabitants to learn the English language, all the proceedings of the courts of law ought to be in English. [cited in Burt, 1933:486].

Likewise, Hugh Finlay, Postmaster-General and a member of the *Council*, writing on 9 February, 1789, to Sir Evan Nepean, the first Permanent Under-Secretary for the Home Department, entertained the idea of making "the people entirely English by introducing the English language ... by free schools, and by ordaining that all suits in our courts shall be carried on in English after a certain number of years"[39] (Shortt and Doughty, 1918:961).

---

[39] It would be recalled that Finlay had warned Nepean (in another letter he had written two years earlier, on 13 February, 1787) that the French Canadians "will not easily get rid of French prejudices ... [and] to cherish a predilection for everything that is French, is not, in my opinion, the most likely means to make Englishmen of the Canadians" (Shortt and Doughty, 1918:185).

D. THE CONSTITUTIONAL ACT OF 1791 AND THE BIFURCATION OF QUEBEC

The British Government deemed it expedient to defuse the existing polemical situation by a *modus operandi* that could accommodate both the parties. After due consideration it decided to bifurcate the Province of Quebec into two separate provinces -- Upper and Lower Canada.[40] The boundaries between the two Canadas were to be based on ethnic demarcations.

Grenville, the Secretary of State for the Home Department, wrote to Dorchester, the Governor of Quebec, that

> a considerable degree of attention is due to the prejudices and habits of the French inhabitants who compose *so large a proportion of the community*, and every degree of caution should be used to continue to them the enjoyment of those civil and religious Rights which were secured to them by the Capitulation of the Province, or have since been granted by the liberal and enlightened spirit of the British Government [emphasis supplied, Shortt and Doughty, 1918:988].

He further counselled that

> every consideration of policy seemed to render it desirable that the great preponderance possessed in the Upper Districts by the King's ancient Subjects, and in the lower by the French Canadians should have their effect and operation in separate Legislatures... [Shortt and Doughty, 1918:988].

By the *Constitutional Act* of 1791, each of the two Provinces was given an appointed Legislative Council and an elected Assembly to enact laws for their respective

---

[40] The division was officially announced by an "Order-in-Council," dated 24 August, 1791 (reproduced in Doughty and McArthur, 1914:3).

Provinces with the assent of the British Monarch (or his representative). History repeated itself. Like the previous charters --*Articles of Capitulation*, the *Treaty of Paris* (1763), the *Royal Proclamation*, and the *Quebec Act* of 1774-- the new constitution, proclaimed to be enforced on 26 December, 1791 (Doughty and McArthur, 1914:56) did not *expressly* deal with the status of the French or English language in Upper or Lower Canada. The only recognition that the French language received in the body of the new charter was the provision for the voters and the members of the Legislative Council and Assembly for taking oaths "in the *English or French* language.[41]

Upper Canada

The predominantly English-speaking Upper Canada (Legendre, 1982:6), by the *Constitutional Act* of 1791, was, like the Lower province, bound by the laws in force at the time of division of Quebec till such times as they were "expressly repealed or varied (Article XXXIII of 31 Geo. III, c.31). The legislature of Upper Canada soon got down to the business of anglification of French provisions. For example, in one of the first statutes enacted by the Province of Upper Canada on October 15, 1792, the provision of section 8 of the *Quebec Act* that stipulated resorting to French law in matters of property and civil rights was abrogated and replaced by the laws of England.[42]

---

[41] *Vide* Articles XXIV & XXIX of 31 George III, c.31 (reproduced in Shortt and Doughty, 1918:1039-1040).

On July 9, 1794, the Court of King's Bench for Upper Canada was given the jurisdiction and powers of similar courts in England.[43] "The only express recognition of bilingualism" in Upper Canada, according to Sheppard (1971:51-52), was the provision that required that notices "attached to the processes served on Canadian defendants ... be written in the French language."[44] Sheppard finds it difficult to conclude that French was ever an official language of Upper Canada. For, as he stated (p.52), it was true

---

[42] It stated:

> That from and after the passing of this Act, the said provision contained in the said Act of the fourteenth year of his present Majesty, be, and the same is hereby repealed; and the authority of the said Laws of *Canada*, and every part thereof, as forming a rule of decision in all matters of controversy relative to property and civil rights, shall be annulled, made void and abolished, throughout this Province, and that the said Laws, nor any part thereof as such, shall be of any force or authority within the said Province, nor binding on any of the inhabitants thereof.
>
> . . . .
>
> III. ...That from and after the passing of this Act, in all matters of controversy relative to property and civil rights, resort shall be had to the Laws of *England* as the rule for the decision of the same [Doughty and McArthur, 1914:83-84].

[43] S.U.C. 1794, 34 Geo. III, c.2.

[44] According to *34 Geo. III, c.2, s.9:*

> ...upon every copy of such process, to be served upon any defendant, shall be written a notice in the English tongue, to such defendant of the intent and meaning of such service to the effect following:
>
> "A.B. You are served with this process, to the intent that you may, either in person or by your attorney, appear in His Majesty's court of King's Bench, at the return thereof, being the day of in order to defence in this action."

> that section 33 of the Constitutional Act did not abrogate those laws of the province of Quebec which had provided for the use of French in the administration of justice, nor was there ever an express repeal of these laws by the legislature of Upper Canada. However, by section 3 and 5 of the Upper Canada Act, the laws of England were to be the rule of decision in matters of controversy relative to property and civil rights, and all matters relative to testimony and legal proof were to be regulated by English rules of evidence. The combined effect of these provisions may have been to abrogate the use of the French language in the courts unless otherwise provided and to extend to Upper Canada the application of the Act of the British Parliament, which had made English the only lawful language of proceedings in English courts.

Nonetheless, the legislature of Upper Canada did pass a *resolution* making it obligatory that *all* laws be translated into French for the benefit of inhabitants, and to that effect appointed a French translator for the House of Upper Canada (Journal of House of Upper Canada, 1793, cited in Sheppard, 1971:52). The Legislative Assembly of Upper Canada that had survived disbandment, passed a resolution on 27 March 1839, declaring English as the sole language "in use in the debates of the legislature, before the courts of

---

[44] (cont'd) And when any party, defendant, is a Canadian subject by treaty, or the son or daughter of such Canadian subject, the like notice shall be written in the French language.

"A.B. Il vous est enjoint et ordonné de comparoître personnellement ou par procureur à la cour du banc du roy à l'expiration de ce writ qui sera le jour pour répondre à cette action" [Sheppard, 1971:51].

justice, and in all public documents." Thus, English became the sole official language of Upper Canada (Sheppard, 1971:53).

Lower Canada: Ethnolinguistic Tension

The British Government may have in their best judgement averted an impending crisis in those early days following the arrival of Loyalists by ushering in an era of representative government and by dividing the Colony into two halves with a view to segregating the two ethnic groups. However, to the extent that there was an English-speaking minority in Lower Canada and to the degree that the two people were distinctly different, difficulties arose in the very first session of the *Assembly*. Of the 50 elected members of the *Assembly*, elected in June 1792, 16 were Englishmen and 34 were French Canadians (Kennedy, 1922:88) in a total population of about ten thousand English-speaking and 156,000 French-speaking inhabitants. Contrastingly, the French Canadians were in a distinct minority in the non-elected governmental bodies: they held seven out of sixteen seats in the *Legislative Council* and four out of nine in the executive branch (Wade, 1968:94). Thus the English community continued to enjoy considerable influence even in Lower Canada with its Francophone-majority composition. The English dominance was also made possible as the representative assembly did not enjoy ministerial responsibility which remained in the hands of the colonial government. Moreover the colonial administration had the support of the upper clergy and seigneurs (Legendre, 1982:6; Morton, 1981:8).

Loose bilingualism was conventionally accepted in Lower Canada from the very first day. Both English and French were used in communication. In the first sitting of the *Assembly* of Lower Canada on December 17, 1792, the use of either of the two languages was uncontested. In fact, important speeches and proposed amendments were translated into the other language. For example, the invitation from the Lt/Governor to the members of the *Assembly* to elect their Speaker, "as reported in the minutes of that day, was repeated in French by his order and in his presence." The motion made by James McGill to postpone the election by one day was also repeated in French, and the amendment of Pierre-Louis Panet, originally made in French, was translated into English" (Sheppard, 1971:45).

The Language of the Speaker

Hostility and misgivings between the two language groups, however, surfaced with the first business of the Legislative Assembly, *viz.*, the election of the Speaker. The English members proposed Grant, McGill, and Jordan, who were all bilingual, whereas the majority of the French-speaking members recommended Jean-Antoine Panet, who admitted to have only an imperfect command over the English language (Marx, 1967:244). A debate over the bilingual qualifications of the Speaker ensued. Some of the French Canadians joined the English in arguing along with Pierre-Louis Panet, a cousin of one of the nominees for the Speakership, that on principle the Canadians should ultimately adopt the English language and, therefore, in the interim, they should have a bilingual speaker.[45] However, they were unsuccessful in persuading their French-speaking colleagues, and Jean-Antoine Panet was elected the first Speaker of the Assembly by a vote of 32 to 18[46] -- "a division based almost entirely on racial lines" (Honsberger, 1965:315; Kennedy, 1922:89; Marx, 1967:244).

Official Language of the Assembly

After the election of the Speaker, a three-day debate ensued over the subject of the official language of the Assembly. Once again, parties to the two sides were, with a few exceptions, divided on ethnic lines. The issue was three-fold: (a) the language of proceedings, (b) the language in which records were published, and (c) if one language had a legal edge over the other.

---

[45] The argument was:

> It is absolutely necessary for the Canadians to adopt the English language in time, for this is the sole means to banish the antipathy and the suspicion which the diversity of language will maintain between two peoples united by circumstances and forced to live together. But while awaiting this happy revolution, I believe that it is only decent that the speaker whom we choose should be able to express himself in the English language when he addresses the representative of our sovereign [Wade, 1968:95].

[46] According to Sheppard (1971:44) the vote was "28 to 18 in favor of Panet." However, he does not say if the remaining four members out of a total of fifty were absent or abstaining.

The debate on the legal status of the language was sparked during deliberations of the "rules committee." To the proposal submitted by Pierre-Amalle de Bonne that the journals of the *Assembly* be kept in both languages, John Richardson, the leader of the Montreal merchants, offered a proviso that only the English version, however, be considered as the legal text.[47] The Richardson amendment was, however, defeated. Whereupon, he made another unsuccessful attempt to win legal status solely for English language[48] (Sheppard, 1971:48). Subsequent attempts to

---

[47] Richardson's amendment stated:

> But although the journal shall thus be kept in english and in french, and all Bills that may be brought in, or laws that may be enacted, shall be translated from the one into the other language, at such stage of their progress as may be determined upon; yet in order to preserve that unity of legal language indispensably necessary in the Empire, and touching any alteration in which a subordinate legislature is not competent; the english shall be considered the legal text [cited in Sheppard, 1971:46].

[48] His second motion which, too, was rejected, stated:

> That all Bills brought into this House or that may pass into a Law, may be originally brought forward, either in the english or french language.
>
> That if brought forward in one language only, they shall be translated into the other, in such manner as the House may order, before they can be considered to have received a second reading; and that all amendments, made to them, shall be equally put into both languages, in such manner as this House may order for the information of all the Members of this House; but that it shall be considered and understood that the english language, being that of the Empire of which it is our glory to

declare English as "the official language of the Assembly" even though the "bills should be presented in either French or English accompanied by a translation," were also defeated (Sheppard, 1971:48).

It was finally resolved that

1. all bills relating to the Criminal Laws of England and the rights of the Protestant clergy be *introduced* in the *House of Assembly* in the English language and the bills pertaining to civil matters be *introduced* in French;
2. once presented, however, all the bills were to be translated into the other language and thus be read to the *House* in both languages; and
3. the primary text of a law would depend on its origin: English for the Criminal law and French for the Civil (Doughty and McArthur, 1914:105).

Thus, *prima facie*, both the languages were on an equal footing and the records of the House were kept in both languages and it was agreed upon within the Province of Lower Canada that that version would be the legal text from which the law originates --French for Civil Law, and English for Criminal. Nevertheless an anomaly persisted due to the insistence of the Home Department that all laws be "passed" in English only (Sheppard, 1971:49). It was in this context that even in Lower Canada, legally speaking, English language retained an upper hand over the French

---

[48] (cont'd) form a small part, shall be the legal text (Sheppard, 1971:48).

vernacular.[49]

In the judicial branch of the government, however, the language practice in force prior to the enactment of the *Constitutional Act*, remained unchanged. (Buchanan, 1925:38; S.L.C. 1793, 34 Geo III c.6, s.29; Sheppard, 1971:50). Thus, the linguistic rights of the French continued in the administration of justice. An interesting judicial case that attempted to impinge upon French language rights is worth noting. By an enactment of 1785, it was granted that the writs of summons were to be issued in defendants' language. This provision, however, was repealed on April 8, 1801 (Sheppard, 1971:50; S.L.C 1801; 41 Geo III c.7 s.1). Consequently, in *R. v. Talon* the defence tried to void the writ because it was issued in French which was allegedly not the language of the Crown. Mr. Justice Reid, however, over-ruled the objection, observing:

> The French language has been used by His Majesty in his communications to His subjects in this province,

---

[49] Sheppard's concurrence with the conclusion of Chapais is reflective of this situation:

> Chapais [1919] has concluded that from 1791 to the dissolution of the Legislative Assembly, the official language of the province was *legally* English. However, for almost 50 years parliamentary records and statutes were published and printed officially in the two languages and, in fact, the French language was on the same plane as the English even though full official recognition of the French language did not come until later. In the meantime the language of the legislature was English because the official text of the laws was English, and the language in which the representative of the King expressed himself in the Parliament of Lower Canada was English only [Sheppard, 1971:49-50].

> as well in his executive as in his legislative capacity, and been recognized as the legal means of communication of His Canadian subjects. Courts of Justice have at all times used this language in their writs and processes as in their other proceedings as well before as since the Ordinance of 1785.
>
> It is for the benefit of the subjects that this was done, and the defendant cannot be permitted to say that he will not be sued *in the language of his country* (cf. Sheppard, 1971:37, italics added)

Considerable jealousy existed between French and English factions in the Assembly in Lower Canada. The French, by sheer numbers, were solidly in control of the House. They had fixed a quorum so that no session could be held without a French-Canadian majority (Kennedy, 1922:90).

Lt/Governor of Lower Canada, Robert Milnes, conveyed his apprehensions regarding increased popular power of French Canadians in the province to the Duke of Portland, the Secretary for War and the Colonies, in a despatch dated 1st November, 1800. Nine tenths of about 160,000 souls living in Lower Canada, Milnes reported, resided in the parishes where Roman Catholic religion prevailed and the priests enjoyed *undue* independence, as their freedom went "considerably further than what was intended by the Royal Instructions."[50] Whereby, Milnes added, "the whole Patronage of the Church has been thrown into the hands of the Roman Catholic Bishop, and all connexion between the Government and the People through that channel is cut off, as the Priests do not consider themselves at all amenable to any other Power than the Catholic Bishop" (Doughty and McArthur, 1914:249-255).

---

[50] Article 44 of the 'Instructions to the Governor of Lower Canada,' issued in 1791 (at the time of the implementation of the new constitution), required, "That no person whatever is to have Holy Orders conferred upon him or to have the care of Souls, without Licence first had and obtained from the Governor" (Doughty and McArthur, 1914:24ff).

Portland's reply was clear. He instructed the Governor to make every effort towards resuming the Governor's power of granting a "Licence requisite for admission to Holy Orders." The Secretary agreed to Milnes's "proposal for increasing the Allowance to the Catholick Bishop ... almost to any extent" if it could help in restoring the Imperial authority. At the same time the popular power of the *Canadiens*, "which constitutes so great a proportion of the inhabitants of the Province," Portland contemplated, could be reduced by way of "making Grants of the Waste Lands of the Crown to Protestants" (Doughty and McArthur, 1914:255-257).

The French influence was indeed so perceptible in Lower Canada that the editor of *Quebec Mercury*, an organ of English commercial interests, founded in 1805, commented that the Province was "too French for a British colony," and deemed it "essential ... to strive by all means to oppose the growth of the French and of their influence" (Honsberger, 1965:315). The French reacted to the *Mercury's* bitterness against them by publishing a weekly --*Le Canadien*-- in November 1806. *Le Canadien* supported the French majority in the *House of Assembly* and adopted *"Notre langue, nos institutions, et lois,"* as its motto

(Honsberger, 1965:315-316; Kennedy, 1922:94). Such sentiments provoked and instigated the Governor of the Province who seized the *Le Canadien* press in March 1810 and arrested the proprietors "on the charge of treasonable practices" (Doughty and McArthur, 1914:391; Kennedy, 1922:96).

With the *House of Assembly* becoming a mouthpiece for the French-Canadian nationalism and there being a virtually stalemated government, the Governor-in-Chief asked for a report on the situation from Chief Justice Sewell whom he considered "[extremely] competent to form a true judgement of the State" (Doughty and McArthur, 1914:400).

Chief Justice Sewell on Franco-English Discord in Lower Canada

Chief Justice Sewell presented an incisive report in 1810, stating that the onus of trouble in the Province lay upon historically rooted "mutual distrust, jealousies and even enmity" between the French and the English, and a weak executive which was unable to counteract the French influence. The source of distrust between the two people stemmed from their differences in religious, linguistic and legal affiliations. Because of such a variation, Sewell remarked, the allegiance that the French gave to the British authority was an act of obedience rather than a deference of affection. Indeed the suspicion was so great that "every favor conferred is considered to be no more than what is due to them, or as a matter obtained from persons who would not have conceded so much if it had been possible for them to retain it" (Doughty and McArthur, 1914:401). Such a distrust and lack of confidence was quite "natural" and understandable to the Chief Justice, for the differences between the two people were old and sharp.

The answer to the difficulty, *à la* Sewell, was singular: either anglicize the French or lose the country. Sewell warned:

> It seems ... to me, impossible that the incorporation of two such Extremes can ever be effected, and to this I add, that no change in the Laws or religion of the Country can be even expected until the Majority of its inhabitants are Englishmen, in principle, and that while the number of English settlers remain so small in comparison to that of the Canadians, a change in Language, cannot be looked for, Yet the Province must be converted into an English Colony, or, it will ultimately be lost to England [Doughty and McArthur, 1914:401-402].

He recommended submerging French population into an English majority by (a) encouraging English-speaking settlers,[51] and

---

[51] In the opinion of the Chief Justice,

> such settlers it is certain would be the descendants of Englishmen, profess the same religion, and speak the same language, and would therefore be more easily assimilated, and become better subjects than those which we now possess, and if to people the Country with such Characters is to incur a risk, the risk incurred will be less than that which we must incur by suffering the Province to remain in its present state.
>
> The Waste Lands of the Crown afford sufficient means for the accommodation of a much greater number of Settlers than is required, But their dispersion through the settled parts of the Country is desirable upon many accounts .... (Doughty and McArthur, 1914:402].

(b) unifying the provinces of Canada. Thus, with the changed demographic make-up, Sewell expected to puncture the French superiority in Lower Canada and could then introduce English (Doughty and McArthur, 1914:401).

Finally, Sewell was against the Church-controlled educational system, for it nourished "French Predilections," and "Natural Antipathy against England and her heretical Government" (Doughty and McArthur, 1914:405).

Sewell's recommendations were crisp and belligerently in favor of assimilating French Canadians into English. However, he was neither the first nor the only one to have entertained the idea of an English-predominant united Canada. In a letter to the Duke of Kent, in October 1807, Mr. John Black, who had returned to Britain after a 21-year stay in British America and had served in the Legislative Assembly of Quebec from 1796 to 1800, had observed the existence of two *distinct* ethnic groups in Canada which were being kept apart chiefly on account of language differences (Doughty and McArthur, 1914:323-325). The existence of separate militias --an English and a French-- respectively with English and French words of command, was seen fraught with danger. Black suggested the union of the two Provinces as a remedy to the threatening situation.

Governor-in-Chief Craig Reports

On May 1, 1810, the Governor-in-Chief, Sir J.H. Craig submitted a detailed report (Doughty and McArthur, 1914:387-400) on the state of affairs in the colony to the Earl of Liverpool who had succeeded Castlereagh as Secretary for War and the Colonies in December 1809. Like Black, and Sewell, Craig, too, apprised the Home Department of the grimness of the situation. The Governor-in-Chief had several major concerns:

1. He was critical of sharing the government of the country with French Canadians who were not only diverse in interests, religion, language, and educational level but were also likely to have a perpetual majority in the House of Representatives.
2. The wide disparities between the French and the English, coupled with feelings of distrust, were responsible for lack of friendship bordering on hatred for each other (Doughty and McArthur, 1914:388).
3. Religious affiliations of the Catholic variety were further taking roots among French Canadians and their religious leaders had become even more powerful under the British as compared to their days under France.
4. With the victories of France in Europe, the French majority in the colony was becoming more audacious in their defiance of British power. They were openly expressing their sentiments of *La Nation Canadienne*.

In sum, Craig viewed the vast majority of the French-speaking subjects as an ominous sign in the representative system specially when, he warned, they were "in Language, in religion, in manner and in attachment completely French -- bound to us by no one tie, but that of a Common Government, and on the contrary viewing us with sentiments of mistrust & jealousy, with envy, and I believe, I should not go too far, were I to say with hatred" (Doughty and McArthur, 1914:388). To remedy the situation, he, too, recommended abolition of the representative government and the reunion of the two provinces.

The next two decades were replete with a continual "tug-of-war" between the elected French-majority legislative Assembly and the nominated executive and legislative Councils. Successive Governors of Lower Canada --Craig, Sherbrooke, Richmond, Dalhousie, and Aylmer-- faced an aggressive popular House of Assembly apparently bent upon bringing the colonial government under its influence by way of increasing legislative control over civil expenses in the province (Kennedy, 1922:96-102). The British cabinet backed the Governors of Lower Canada and exhorted them to maintain their independence, for "it would indeed have been wholly inconsistent with the nature of a Colony ... that the Executive Government should have been placed in the same state of dependence upon a local Legislature, as most usefully subsists reciprocally between the Crown and the Parliament of the United Kingdom."[52]

---

[52] See Liverpool's correspondence with Craig, reproduced in Kennedy, 1918:276-279.

Proposed Bill of Union

However, tired of complaints between the executive and the popular House of Assembly in Lower Canada, the British Government introduced a bill in the *House of Commons* in June of 1822 "for unifying the Legislatures of the Provinces of *Lower & Upper* Canada." The proposed bill envisaged a joint Legislative Council and a joint Assembly for both Provinces, enjoined a property qualification for the candidates seeking membership in the Assembly, such that "would have disfranchised most of the *habitants*," and boldly proposed to declare English as the sole official language (Doughty and McArthur, 1914:123-131).[53] The British Government soon received a number of petitions, some against and some in favor of the reunion.[54]

Petitions favoring the union of the two Provinces considered the move as a step towards thwarting any further fortification of the concept of "*La Nation Canadienne*."[55] They were alarmed at the then publicised claims of the

---

[53] The bill proposed:

> That from and after the passing of this Act, all written proceedings of what nature soever of the said Legislative Council and Assembly, or either of them, shall be in the *English* language and none other; and that at the end of the space of fifteen years from and after the passing of this Act, all debates in the said Legislative Council or in the said Assembly, shall be carried on in the *English* language and none other [Doughty and Story, 1935:130].

[54] Some are reproduced in Doughty and Story, 1935:122-153.

[55] See for example, 'Petition from Montreal for Union, December, 1822,' as reproduced in Kennedy(1918:318-323).

French as a "Nation Canadienne," who had "more than twice doubled their numbers since the Conquest," even in the absence of any Francophone immigration, because of high birth rate. They demanded anglicization of the French, and saw the union as instrumental to the process of anglification (Kennedy, 1918:329).

Whereas in Upper Canada opinion was divided (Kennedy, 1922:103), the French Canadians from Lower Canada, as could be expected, voiced a strong resentment against the move. The press --the *Quebec Gazette*, the *Spectateur Canadien*, and the *Gazette Canadien*-- fanned the imminent threat to the French-Canadian institutions, laws, and language. Public meetings were held, a protest movement emerged, and anti-unionist committees were formed. A mass of 60,000 individuals signed an appeal against the proposed union (Wade, 1968:131). In the petition, dated 15 November, 1822 they conveyed their aversion to the proposed union, "under any conditions whatever, & much more so under those of the Bill in question" (Doughty and Story, 1935:140). They pleaded that they were *loyal* subjects of the Imperial Majesty who could not be denied the basic rights to His Majesty's subjects anywhere in the world. They took exception to the demands of their opponents whom they termed, "an insignificant minority," asking for "what they call Anglifying the country ... [whereby] depriving the great majority of the people in this Province of all that is dear to men; their laws, usages, institutions and religion"

(Kennedy, 1918:318). Papineau and John Neilson, who represented the concerns of the anti-Unionists to the Ministers and the Parliament in Britain felt that the proposed measure was impolitic, for "the laws, customs, usages, religions, and dominant prejudices of the two regions were dissimilar," and even the "economic interests of the two provinces were actually opposed" (Wade, 1968:133). *The two commissioners also criticised the skewed mode of proposed representation in the Bill that would have "unjustly favored Upper Canada, which would have more than twice Lower Canada's in proportion to population, while the latter province had five times as many inhabitants as Upper Canada"* (emphasis supplied, Wade, 1968:133).

On the language question, the commissioners' reasoning was profound:

> The common usage of two languages is embarrassing, but in many cases it is inevitable. It was thus in England after the Norman conquest, and the ill-advised measure of that barbarous epoch which proscribed the Saxon tongue suffered a deserved fate. The language of the majority of a nation whose elements have close mutual relations always ends by prevailing. The English language will inevitably become the dominant language in North America, with or without measures of law. There are probably not ten members of the present House of Assembly of Lower Canada who do not understand English; several speak it easily; and no citizen of the province having means or some notable situation neglects to have his children taught English. It is thus that things change with time and yield to circumstances. But the language of a father or mother, of family or friends, of first impressions and first memories, is dear to all. And this unjustified proscription of the language of the Canadian people has been violently resented in a country where this tongue did much to save the colony for Great Britain at the time of the American Revolution [cited in Wade, 1968:133].

In the light of heated protests, the Bill for the Proposed Act of Union was withdrawn (Honsberger, 1965:316; Marx, 1967:245). However, fresh disturbances erupted in reaction to a steady flow of Anglophone immigrants into Canada, who were "often penniless and disease-ridden." Immigration, initially sought by the merchants of Montreal to procure manpower "for the great canal-building projects, and to offset French-Canadian preponderance," was encouraged by the British Government as unemployment and distress increased in England, Scotland, and Ireland. Francophones were particularly bitter about the influx of destitute English-speaking immigrants. At the turn of the nineteenth century "less than one percent of Quebec's population was that of the English protestants" (Morf, 1976:81). However, increased "British immgration after 1815 and particularly after 1830 ... into Lower Canada," upset the Francophones. Hundreds of thousands of British, Scots, English, and Protestant Irish together with Roman Catholic Irish increased the Anglophone element in Lower Canada (Morton, 1981:8). The stream of Anglophone immigration in Canada was perceived as a threat to the *Canadiens*. The new comers competed for the scarce agricultural land and jobs in the Colony, where peasants were already impoverished due to "the failure of wheat and commercial agriculture" and poor harvests, but also on account of "overpopulation and over-exploitation of lands (Legendre, 1982:6). Agricultural production had in fact dropped to the point where Lower

Canada had become dependent on Upper Canada (Ouellet, 1962:52). Apart from this, however, the increase in the Anglophone element also raised the possibility that Canada might indeed become an English country in population as well as allegiance (Morton, 1981:8). It was during this period that the Patriots' party was founded (Ouellet, 1962:54-55). The French Canadians publicly gave vent to nationalistic sentiments on February 17, 1834 in the form of adoption of ninety two resolutions[56] (Kennedy, 1922:107; Léger, 1960:314). The fifty second resolution adopted the following text:

> ... that the majority of the inhabitants of this country are in nowise disposed to repudiate any one of the advantages they derive from their origin and from their descent from the French nation, which, with regard to the progress of which it has been the cause in civilization, in the sciences, in letters, and the arts, has never been behind the British nation, and is now the worthy rival of the latter ....

The French Canadians were now openly demanding autonomy and freedom to mold their society as they liked (Ouellet, 1962:55). The representative assembly which was dominated by the patriotic party since the beginning of 1830s conflicted with the Governor and accused the nominated upper chamber as a servile tool of the executive (Kennedy, 1922:109; Legendre, 1982:6). The *Canadiens* demanded that the government should be responsible to peoples' elected representatives, sought an elected upper chamber, and asked for Assembly's complete control over all revenues. In 1836, the House of Lower Canada formally resolved, *inter alia*,

---

[56] Reproduced in Kennedy, 1918:366-388.

> To render the Executive Council directly responsible to the representatives of the people, in conformity with the principles and practice of the British Constitution as they obtain in the United Kingdom; to extend the principle of election to the Legislative Council, which branch of the Provincial Legislature has hitherto proved, by reason of its independence of the people, and of its imperfect and vicious constitution insufficient to perform the functions for which it was originally designed; to place under the constitutional and salutary control of this House the whole of the revenues levied in this Province from whatever source arising .... [Kennedy, 1918:426]

On March 6, 1837, the House of Commons passed ten resolutions (reproduced in Kennedy, 1918:434-436). The Imperial authorities, *inter alia*, (a) refused the demand for an elected legislative council, (b) denied executive responsibility to the Assembly, (c) empowered the Governor-General to use monies in the hands of the Receiver-General to pay arrears of salaries, and (d) promised complete control of revenue only in return for permanent judicial salaries and a civil list.

The political situation became volatile in the Fall of 1837 when the House of Assembly of Lower Canada passed an ominous reply to the Home Government, offering that "it is our duty ... to tell the Mother Country, that if she carries the spirit of these resolutions into effect in the Government of British America, and of this Province in particular, her supremacy therein will no longer depend upon the feelings of affection, of duty and of mutual interest which would best secure it, but on physical and material force ...." (Doughty and McArthur, 1918:439). Despite clerical calls for peace, a "rebellion" broke out in Lower Canada in November of 1837 (Kennedy, 1922:114; Legendre, 1982:6; Ouellet, 1962:55). The revolt, however, was quickly controlled by the British "by two brief military campaigns in 1837 and 1838" (Legendre, 1982:6).

In view of the turmoil, on February 10, 1838 the British Parliament suspended the powers of the Legislature of Lower Canada and provided for the appointment of a *Special Council* to legislate for the Province (1 & 2 Vict., c.9, in Kennedy, 1918: 445-447).

Awaiting the arrival of Lord Durham, Sir John Colborne summoned a temporary Council consisting of twenty one members, eleven of whom were French Canadians (Kennedy, 1922:115).

The rules and orders of the *Special Council* adopted on April 18, 1838 were silent on the language of the proceedings. However, "every ordinance passed by the Council was in English, although all ordinances were printed in both languages in separate volumes" (Sheppard, 1971:53).

Durham Report: A Blueprint for Amalgamation

In January 1838, John George Lambton, the first Earl of Durham, was appointed as the Governor-General of the British North American provinces. "Lord Durham," as he is popularly known, arrived at Quebec on May 27 and was sworn in on the 29th. His historical report on the affairs of the British North America is dated 31st of January, 1839 (Lucas, 1912, vol. I:2).

Discord between the French and the English in North America, Lord Durham observed in accord with Chief Justice Sewell, was perpetuated mainly on account of ethnic differences between the two races, and secondarily, because of lack of amity between the nominated executive branch of government and the elected legislative body, *viz.*, the House of Assembly.

The Earl of Durham blamed "the system of government pursued in Lower Canada" for perpetuating the "very notions of conflicting nationalities which it ought to have been the first and chief care of Government to check and extinguish" (Lucas, 1912, II:63).

The racial differences, which were seen as the main cause of dissension, themselves were traced chiefly to the conflict of language. The French-Canadian race was seen by him to be in a state of "hopeless inferiority," and the bane of such a state was their distinct language and manners that had kept them apart from the English. In the words of Durham:

> A spirit of exclusion has closed the higher professions on the educated classes of the French Canadians, more, perhaps, than was absolutely necessary; but it is impossible for the utmost liberality on the part of the British Government to give an equal position in the general competition of its vast population to those who speak a foreign language. [Lucas, 1912, vol.II:292].

Lord Durham had the perspicacity to observe the effects of difference of language on the inhabitants of North America. He stressed the link between language and thought and recounted the dangers of misunderstanding and confusion arising out of lack of communication. Some of his arguments are reproduced below as they seem to have relevance to the present and the recent-past history of the Franco-English, ethnolinguistic struggle:

> As they are taught apart, so are their studies different. The literature with which each is the most conversant, is that of the peculiar language of each; and all the ideas which men derive from books, come to each of them from perfectly different sources. The difference of language in this respect produces effects quite apart from those which it has on the mere intercourse of the two races. Those who have reflected on the powerful influence of language on thought, will perceive in how different a manner people who speak in different languages are apt to think; and those who are familiar with the literature of France, know that the same opinion will be expressed by an English and French writer of the present day, not merely in different words, but in a style so different as to mark utterly different habits of thought. This difference is very striking in Lower Canada; it exists not merely in the books of most influence and repute, which are of course those of the great writers of France and England, and by which the minds of the respective races are formed, but it is observable in the writings which now issue from the Colonial press. The articles in the newspapers of each race, are written in a style as widely different as those of France and England at present; and the arguments which convince the one, are calculated to appear utterly unintelligible to the other.
>
> The difference of language produces misconceptions yet more fatal even than those which it occasions with respect to opinions; it aggravates the national animosities, by representing all the events of the day in utterly different lights. The political misrepresentation of facts is one of the incidents of a free press in every free country; but in nations in which all speak the same language, those who receive a misrepresentation from one side, have generally some means of learning the truth from the other. In Lower Canada, however, where the French and English papers represent adverse opinions, and where no large portion of the community can read both languages with ease, those who receive the misrepresentation are rarely able to avail themselves of the means of correction. It is

> difficult to conceive the perversity with which misrepresentations are habitually made, and the gross delusions which find currency among the people; they thus live in a world of misconceptions, in which each party is set against the other not only by diversity of feelings and opinions, but by an actual belief in an utterly different set of facts. [Lucas, 1912, II:39-41].

Lord Durham, who is described as "an aristocrat in temper and habits, lordly and imperious" (Lucas, 1912, vol.I:2) recommended a firm ruling on the future of the British colony: the French must be "amalgamated" into the English (Lucas, 1912, vol.II:292). He entertained "no doubts as to the national character which must be given to Lower Canada; it must be that of the British Empire" (Lucas II:288). He was, however, aware that "a considerable time must, of course, elapse before the change of a language can spread over a whole people" and he visualized and recommended tolerance for the interim period in which "justice and policy alike require, that while the people continue to use the French language, their Government should take no such means to force the English language upon them as would, in fact, deprive the great mass of the community of the protection of the laws" (Lucas, 1912, II:296). But he was categorical that the British North America must ultimately be English:

> But, I repeat that the alteration of the character of the Province ought to be immediately entered on, and firmly, though cautiously, followed up; that in any plan, which may be adopted for the future management of Lower Canada, the first object ought to be that of making it an English Province .... [Lucas, 1912, II:296].

The transformation of Canada into a positively English land was to be accomplished by "obliterating the nationality of the French Canadians ... [by] that of a numerical majority of a loyal and English population" (Lucas, 1912, II:299). He therefore recommended "the union of the two Provinces [which he envisaged] would not only give a clear English majority, but one which would be increased every year by the influence of English emigration"[57] (Lucas, 1912, II:307). Durham's optimism re anglicization of the French, once they were reduced to a minority in a politically united Canada, however, is rather surprising in the light of his own observations on the keen sense of pride the French had in their *nationality* and the price they seemed willing to pay to safeguard it. In a letter to Lord Glenelg, Durham had explained, that

> with the progress of British intrusion ... [the French] discovered, not only the uses of a representative system, but also that their nationality was in danger; and I have no hesitation in asserting that of late years they have used the representative system for the single purpose of maintaining their nationality against the progressive intrusion of the British race ... and though they are a stagnant people, easily satisfied and disinclined to exertion, they have naturally resisted an invasion which was so offensive to their national pride [Kennedy, 1918:457].
>
> I would not exaggerate the amount of the sacrifice that they are willing to make for the sake of revenge. It is right to add, therefore, that, in my opinion, they almost despair, come what may, of

---

[57] British immigration had indeed achieved such a fervour where the 1851 census registered the fact that the Francophones were no longer a numerical majority in Canada -- the English-speaking population had surpassed them in numbers (Legendre, 1982:7).

> preserving those ancient usages and that distinct nationality, in defence of which they have struggled so many years [Kennedy, 1918:458].

History showed that Durham was indeed too optimistic in proposing conversion of French Canadians into English. It is instructive to recall Governor Carleton's courage and insight seventy years earlier to advise the British Government about the relative "superiority" of the French people that he observed would not be overshadowed even by transplanting a new stock of English people in their midst. And, "the experience of the Acadians in 1755 had given a tragic proof that even then the French were too strongly attached to their ancient heritage to accept the proffered substitute of Britain" (Gillis, 1951:163). In that year, seven thousand of them --the "whole ethnic group"-- emigrated to Louisiana "to make room for English settlers" (Morf, 1976:77).

E. THE ACT OF UNION 1840, AND THE OFFICIAL SUPREMACY OF THE ENGLISH LANGUAGE

Nonetheless, on Durham's recommendations, on 23rd July, 1840 the Parliament of England passed an "Act to reunite the Provinces of Upper and Lower Canada, and for the government of Canada," and thereby union between the two provinces was proclaimed on February 5, 1841.

The Act ignored the principle of proportional representation and notwithstanding the wide disparity between the population of Upper and Lower Canada

--approximately 450,000 and 650,000 respectively-- allotted "42 seats to both Canadas" in the new joint legislative assembly (Legendre, 1982:7).[58]

In *letter*, the Act was a harsh one for French language, for it pronounced English as the *only* official language for use in the Canadian legislature.[59] It was noted at the time of the passage of the Bill as after its enactment that the measure did not prohibit use of the French language in the legislature, "and indeed it was used as such [as a language of debate] from the time of first Union Parliament" in June, 1841. However, English was the sole official language and the language of "original record" (Kennedy, 1918:544n). This again means that translation was permissible, albeit it was subservient to the legal, English, version. Hence, rules and regulations adopted by the Legislative Assembly in 1841 permitted (a) availablity of bilingual copies of the journal of the Assembly, (b) reading of every motion by the Speaker in both the languages before it could be debated, and (c) giving a bilingual notice before introducing a private bill. However, the rules and regulations of the Legislative Council did not refer to the language issue (Honsberger, 1965:317; Ollivier, 1962:23; Sheppard, 1971:56).

---

[58] According to Historian, W.L. Morton (1981:8), the Imperial authorities reacted to the 1837 rebellion by uniting the two Canadas "with representation rigged to ensure an English majority."

[59] It was enacted *vide* Article XLI of the Union Act of 1840 that

> all writs, proclamations, instruments for summoning and calling together the Legislative Council and Legislative Assembly of the Province of Canada and for proroguing and dissolving the same, and all writs of summons and election, and all writs and public instruments whatsoever relating to the said Legislative Council and Legislative Assembly or either of them, and all returns to such writs and instruments, and all journals, entries, and written or printed proceedings of what nature soever of the said Legislative Council and Legislative Assembly and each of them respectively, and all written or printed proceedings and reports of committees of the said Legislative Council and Legislative Assembly respectively, *shall be in the English language only:* Provided always, that this enactment shall not be construed to prevent translated copies of any such documents being made, but no such copy shall be kept among the records of the Legislative Council or Legislative Assembly, or be deemed in any case to have the force of an original record [italics added; Kennedy, 1918:544].

The legitimacy of French translations, however, was further felt when the United Parliament of Canada passed An Act to Provide for the Translation into French Language of the Laws of This Province and for other Purposes Connected Therewith.[60] The Act stated, *inter alia*:

> that the laws passed by the Legislature of this Province as well as the Acts of The Imperial Parliament, relating to this province be translated into the French language ..... that it shall be lawful for the Governor or person administering the government of this Province, to appoint one proper and competent person, versed in legal knowledge and having received a classical French education and possessing a sufficient knowledge of the French language, to translate into the French language the laws passed by the legislature of this Province or The Imperial Parliament relating to or affecting this Province.
>
> And ... that the said translation shall be printed under the direction of the Executive authority and be distributed among the people of this province speaking the French language, in the

---

[60] See S.C. 1841, 4-5 Vic., c.11

> same manner in which the English Text of the said laws shall be printed and distributed among those speaking the English language and under the same provisions [cited in Honsberger, 1965:317].

Further evidence of bilingual publication and distribution of statutes was seen in an *Act to provide for the Summary Trial of Small Causes in Lower Canada*. Article 41 of this *Act* provided that the commissioners appointed under the *Act* should receive a printed copy of it in each language (Sheppard, 1971:56).

These commissioners, too, recommended the translation of English law into French and the French civil laws of Lower Canada into English for their accessability to the two language groups in Canada.[61]

The distribution of laws in *both the languages* was also provided by section 3 of an "*Act to Provide for the*

---

[61] As per their recommendations:

> If ... there could be added a reprint of such parts of the custom of Paris as are still in force in Lower Canada, with an English version sufficiently clear to make the provisions of the custom intelligible to those acquainted with the French language, the value of the work would be considerably enhanced;.... It seems very desirable that some means should be adopted for making the civil law of Lower Canada accessible to the English portion of the population..... The same difficulty exists for those unacquainted with the English language. That difficulty has in a great measure been removed by the excellent and comprehensive consolidation of a very considerable and most important portion of that law, contained in the statutes of the first session of the parliament of Canada; but other parts of the English law are in force in Lower Canada; and it is still true, that two systems of law exist there, each of which, by reason of the language in which it is written, is inaccessable to a large portion of the people whom it binds. [quoted in Sheppard, 1971:57].

Distribution of the Printed Copies of the Laws," passed in the 1844-45 session of the legislature.[62]

Thus, even though for all practical purposes the day-to-day legislative activities were bilingual in the united Canada and the *Union Act* of 1840 had not disturbed the use of French in the administration of justice, yet the French Canadians were quite disturbed at the first explicit attempt of the Imperial Parliament in curtailing the status of their language. Their damaged sense of pride was further marred by the first Governor-General of the united provinces --Lord Sydenham-- who, according to his successor, Sir Charles Bagot, had adopted means that "involved a public, and something very like a private quarrel ... with the whole mass of the French Inhabitants of Lower Canada"[63]

In a confidential letter of September 26, 1842 Bagot betrayed his own sentiments as he unveiled Sydenham's attitude towards the French.

> [Sydenham] despised their [French-Canadians'] talents, and denied their official capacity for

---

[62] The Act stipulated

> that Her Majesty's Printer from time to time hereafter, shall immediately after the close of each session of the Provincial Parliament or soon after as may be practicable deliver or transmit by post, or otherwise, in the most economical mode, the proper number of the printed copies of the Acts of the legislature of the said Province in the English language or French language, or both languages to be printed by him at the public expense to the parties hereinafter mentioned .... [1844-1845, 7 & 8 Vic., c.68, s.3; Honsberger,1965:318].

[63] See Governor Bagot's letter to Lord Stanley, dated June 12, 1842.

> office. In this respect he was mainly right; but there was the lesser reason for fearing their power when held in proper check, and for endeavouring further to weaken it by measures which will not stand the test of justice. Such, for instance, was the cutting off the suburbs from the electoral Districts of Quebec and Montreal. His alleged reason was to give a commercial representation to these towns; his real reason, well known to his Council, was to secure the exclusion of the French from the representation and the acquisition of four supporters to his Government. [Kennedy, 1930:478-479].

As revealed in a private and confidential correspondence between Governor Bagot in Canada and Lord Stanley, the British secretary for war and the colonies, in England, it was the British policy, following Lord Durham's *Report*, to run the Canadian government exclusively by the English.[64] Bagot was finding it more and more difficult to justify the containment of the French in view of their numbers in the land and recommended with extreme reluctance some cooperation with the French Canadians. However, Stanley warned Bagot against a policy of reconciliation. Instead, he saw "a fine opportunity for playing a game of Divide et impera," and would condone accommodation of the French party only as a last resort. Charles Bagot later informed Stanley in a confidential letter dated September 26, 1842 that he had "admitted the French Canadians not to the control of the Government nor to a preponderance in it, but only to a moderate share in the public administration of affairs" (Kennedy, 1930:482).

---

[64] This correspondence is reproduced in Kennedy (1930:469-473).

F. AMENDMENT OF THE UNION ACT - 1848 - AND OFFICIAL BILINGUALISM IN BRITISH CANADA

The official recognition of the use of French as an unofficial language (of translation) did not arrest the French dismay. They persistently fought for the repeal of Article 41 of the *Union Act* of 1840 that had officially changed the status of French language for the first time since the advent of the British in Canada. Things came to a head when a motion was refused by the Speaker of the House of Assembly (1844-45) because it was written in French language (Kennedy, 1930:533n). The refusal provoked the French Canadians to move the Legislative Assembly to adopt a resolution on January 31, 1845 to repeal Article 41. On February 26, 1845 the resolution was also concurred by the Legislative Council, the upper chamber of the Canadian legislature. That forced the Governor-General to transmit it to England where a year later on March 3, 1846 the Queen gave her assent (Marx, 1967:246; Sheppard, 1971:58). The measure was passed: Article 41 of 1840 *Union Act* that had imposed restrictions on the French language was repealed on 14 August, 1848[65] by the British Parliament without much ado, except for the opposition of Lord Stanley who warned that the official recognition of French would constitute "a permanent barrier between two portions of the country" (cf. Kennedy, 1930:533n). Thereupon, Lord Elgin, the newly appointed Governor-General of Canada, read the speech from the throne, for the first time since 1792, in both the languages,[66] and announced that thereafter French *and* English would be official languages in the legislature (Honsberger, 1965:318; Kennedy, 1918:592n; Sheppard, 1971:58-59).

---

[65] 1848, 11 & 12, Vic., c.56

One of the most significant effects of the amendment of the *Union Act* (1840), Sheppard highlights, was that,

> from the time of the session of 1849 until Confederation it can be said with certainty that the official text of all laws passed by the legislature of Canada were in both languages, thus making the French texts as valid as the English. The original records of these statutes survive to confirm this fact which has been overlooked by most commentators on the language question. Thus *official bilingualism existed in Canada at least 18 years before the passage of the British North America Act, 1867* [Sheppard, 1971:59].

Official recognition of bilingualism was further manifested in the following provisions:

1. Interpreters were provided, by law, for the prospective electors who were not conversant with English or French language.[67]

---

[66] Until then, the representatives of the Monarch had read the speech in English only, and the French translation was rendered by the Speaker (Sheppard, 1971:59).

[67] It was provided that

> ... whenever any Elector shall not understand the *English language* or the *French language*, or shall understand *neither of the said languages*, it shall be lawful for any Deputy Returning Officer to make use of an interpreter to translate any Oath or Affirmation which shall be required of such Elector, as well as the questions which shall be put to him and his answers; and such Interpreter shall take before the said Deputy Returning Officer the Oath, or if he be one of the persons permitted by law to affirm in civil cases, the Affirmation following:
>
> "I swear (*or* affirm) that I will faithfully translate such oaths, declarations, affirmations,

2. Rules and Standing Orders of the Legislative Assembly of Canada, published in 1854, had several provisions for mandatory use of both languages:
    a. Rule 5 required that all bills be printed in both languages before the second reading in the House, (except for bills relating only to Upper Canada, though members could ask for a French version of them, as well).
    b. Rule 36 envisaged that all motions and questions be put in both languages.
    c. Standing Order VIII of the *Assembly* stipulated bilingual publication of all bills, unless otherwise directed.
3. On June 10, 1857 the Parliament of Canada, in the light of the commissioners' recommendation that the laws of Lower Canada be available in both French and English, passed an *Act to provide for the Codification of the Laws of Lower Canada relative to Civil Matters and Procedure* whereby *vide* Article 15, the Codes were required to be printed in both languages, standing side by side (S.P.C., 1857, 20 Vic., c.43; Sheppard, 1971:61).
4. Bilingualism in the administration of justice was not disturbed by the *Union Act* (1840) that had enacted

---

[67] (cont'd) questions, and answers as the Deputy Returning Officer shall require me to translate at this Election. So help me God"[Sheppard:59].

English as the sole language of the legislature. Nor did the subsequent legislation in Canada alter that situation. On the contrary, English and French were put at par in the courts as per following enactments:

a. In section 12 of an Act to provide for the easy and expeditious administration of Justice in Civil Causes ... in Lower Canada, it was provided that the summonses should be served in the same manner as those issued by the superior courts of civil jurisdiction in Lower Canada. The significance of the phrase "in the same manner" was that summonses could thus be served in either language according to the law of the land, notwithstanding the repeal in 1801 of the Ordinance of 1785 which had required that summonses be served in the language of the defendant (Sheppard, 1971:62; S.P.C. 1841, 4-5 Vic., c.20).

b. *S.P.C. 1843, 7 Vic., c.16, s.28* "provided expressly that all writs and processes issued by any Court of Queen's Bench should be in both English and French." (Sheppard, 1971:62).

c. *S.P.C., 1843, 7 Vic., c.18, s.10* provided that all writs and processes issued by the Court of Appeals should also be in *both* languages (Sheppard, 1971:62).

d. *S.P.C. 1846, 9 Vic., c.29, s.1* later replaced the compulsory requirement of bilingual writs and processes in *b* and *c* above to either English or French language at the option of the parties.[68]

e. *S.P.C. 12 Vic., c.38, s.36* also provided for official translators in the courts.

f. According to *S.P.C. 1849, 12 Vic. c.38, s.36*, all prospective bailiffs of the Supreme Court were required to be able to write either English or French.

g. *S.P.C. 1849, 12 Vic., c.46, s.26* stipulated that no one could be admitted to the Bar of Canada without knowing *either* English *or* French.

h. The right to mixed juries remained unchanged. The Act recognised "the right of an accused to demand that at least one half of the jury be composed of persons speaking his own language [and] ... in murder cases the accused could demand that the jury be composed *entirely* of persons speaking his own language."(Sheppard, 1971:63; S.P.C. 1864, 27-28 Vic., c.41).

Conditions for the choosing of juries in civil cases were established in *section 9 of the Canada Jury Act of 1864* which stated:

> If the parties to such suit be of different origins, and if any of them demand a jury de medietate linguae, the Court of Judge shall order that the jurors, summoned for such trial, shall be composed in equal numbers of persons speaking the English

---

[68] These provisions were reaffirmed in subsequent legislations: S.P.C. 12 Vic., c.37, s.1 and S.P.C. 12 Vic., c.38, ss.19,51.

> language and of persons speaking the French language....

Unilingual jury, on the other hand, was selected under following conditions:

> If the parties to any cause be all either of French or of English origin, or if, being of different origins, the demand of any of them to that effect be unopposed, the Court or any Judge thereof may order that the jurors to be summoned to try any issue in such suit, shall be composed exclusively of persons speaking the English language, or of persons speaking the French language, according to the language of the parties, or according to the demand, as the case may be;...[Sheppard, 1971:63]

Thus, one would think with Kennedy (1918:592n) that the repeal of Article 41 of the *Union Act* (1840) would have done "much to allay the fear of the French Canadians who had not forgotten Lord Durham's suggestion that the future should contain a gradual effort 'to establish an English population with English laws and language ... and to trust government to none but a decidedly English legislature.'" Yet, French was still not absolutely equal to English: In 1859, at the time of consolidation of the statutes of Upper Canada it was deemed unnecessary to translate them into French, albeit the Government was given the discretion to authorize French translation "at any time" thereafter.[69] Therefore, the French Canadians, as would be seen in the pre-Confederation debates, resolutely sought formal guarantees for the official status of their language.

---

[69] "It shall not be necessary that the said consolidated statutes for Upper Canada be translated into French; but the Governor may, in his discretion cause a translation to be made and printed at any time hereafter" (1859, 22 Vic., c.30, s.13, in Honsberger,1965:318-319).

The Quebec and London Resolutions and the Pre-Confederation Debates

In the *Quebec Resolutions* of October 10, 1864, which were deemed to be the basis of a proposed confederation of the Provinces of Canada, Nova Scotia, and New Brunswick, it was resolved that "both the English and French languages may be employed in the General Parliament, and its proceedings, and in the local Legislature of Lower Canada, and also in the Federal Courts of Lower Canada" (Ollivier, 1962:57).

The language clause in the *Quebec* and *London Resolutions*, however, was unacceptable to some of the French stalwarts who were sceptical that sufficient language guarantees did not inhere in the resolution. The contenders particularly wished that the use of French and English should be mandatory rather than optional and hence in the resolution the word "may" should be replaced by "shall," and secondly, there should be some provision whereby a simple parliamentary majority could be prevented from changing the status of French language use in confederated Canada. The following excerpts from the parliamentary debates held in Canada, on the subject of the confederation of British North American Provinces, illustrate how jealously the French were determined to protect their language rights under the new constitution.

In the third session of the eighth provincial Parliament of Canada, debating the resolution, Felix Geoffrion (Vercheres) made the following remarks on

Wednesday, March 8, 1865:

> A close examination of this resolution shews at once that it does not declare that the French language is to be on the same footing as the English language in the Federal and Local Legislatures; in place of the word "shall," which ought to have been inserted in the resolution, the word used is "may," so that if the British majority decide that the *Votes and Proceedings* and Bills of the House shall be printed only in English, nothing can prevent the enactment taking effect. Of course we shall be allowed to use the French language in debate, but on the other hand, it is evident that the majority may, whenever they choose, enact that the bills and proceedings of the House shall not be printed in French, and consequently the clause affords no security whatever to us French Canadians ....

The Solicitor-General, Hector Langevin, tried to assuage Geoffrin's apprehensions about the security of French language use after Confederation in the following words:

> ... it was perfectly well understood at the Conference of Quebec that the French language should not only be spoken in the courts of justice, in the Federal Parliament and in the Legislature of Lower Canada, but that, precisely as is now the case, the *Votes and Proceedings* of the Legislature as well as all the Federal laws and those of the Legislature of Lower Canada, should be printed in both languages. And what is still more, under Confederation the French language will be spoken before the Federal tribunals, an advantage which we do not possess at present when we apply to the Court of Appeals of Great Britain....

Geoffrion, however, was unconvinced, for he suspected:

> It will always be optional with the British majority to avail themselves of the letter of the Constitution, and they may at any time say to us: "You cannot have it, we oppose it, and the Constitution does not confer on you the rights you claim under it...."

Geoffrion, therefore, stressed that the French-Canadian members "ought to insist that the word 'shall' be substituted for the word 'may' in the resolution relating to this matter, with reference to the publication of the proceedings of the Legislature." Geoffrion insisted that "if we vote these resolutions as they are, we shall vote without knowing exactly the nature of the guarantees they afford us."

On the final day of debate on the resolution, on Friday, March 10, 1865, Mr. F. Evanturel (Quebec county) requested the Attorney General West, John A. Macdonald, to explain the resolution and specifically state if it was to be interpreted as placing the two languages on an equal footing in the federal Parliament. Macdonald suggested "that the rights of the French-Canadian members as to the status of their language in the Federal Legislature shall be precisely the same as they now are in the present Legislature of Canada in every possible respect." At that point Antoine-Aimé Dorion intervened, saying that

> this is no guarantee whatsoever, for in the Union Act it was provided that the English language alone should be used in Parliament, and the French language was entirely prohibited; but this provision was subsequently repealed by the 11th and 12th Victoria, and the matter left to the discretion of the Legislature. So that if, tomorrow, this Legislature chose to vote that no other but the English language should be used in our proceedings, it might do so, and thereby forbid the use of the French language. .... And as the number of French members in the General Legislature, under the proposed Confederation, will be proportionately much smaller than it is in the present Legislature, this ought to make hon. members consider what little chance there is for the continued use of their language in the Federal Legislature.

Macdonald, then, made a seminal point before the Parliament. He averred that the French language gurantees had been sought by way of *incorporating a specific language clause in an Imperial Act*:

> I desire to say that I agree with my hon. friend that as it stands just now the majority governs; but in order to cure this, it was agreed at the Conference to embody the provisions in the Imperial Act.... This was proposed by the Canadian Government, for fear an accident might arise subsequently, and it was assented to by the deputation from each province that the use of the French language should form one of the principles upon which the Confederation should be established, and that its use, as at present, should be guaranteed by the Imperial Act.

B.N.A. Act: The New Constitution

The French Canadians won the battle as is evident from *section 133* of *the British North America Act* that embodied the language provisions in the new Constitution:

> Either the English or the French language may be used by any Person in the Debates of the Houses of the Parliament of Canada and of the Houses of the Legislature of Quebec; and both those Languages shall be used in the respective Records and Journals of those Houses; and either of those Languages may be used by any Person or in any Pleading or Process in or issuing from any Court of Canada established under this Act, and in or from all or any of the Courts of Quebec.
>
> The Acts of the Parliament of Canada and of the Legislature of Quebec shall be printed and published in both those languages.

The *British North America Act* of 1867 is discussed in the next chapter.

G. SUMMARY AND DISCUSSION

In this chapter we reviewed the history of Franco-English cohabitation in Canada under British colonial rule. While the British intended to absorb the French Canadians, the latter continuously safeguarded their separate identity. The "battle" between the two groups was fought over French language rights.

Except for the first few years of British military occupation of Canada, before France signed an agreement with Britain, conceding British sovereignty in North America, the British Government pursued a policy of absorption. Assimilation of French Canadians into the English was contemplated partly through religious sanctions and legal transformation but chiefly by means of linguistic measures.

In order to understand the dynamics of ethnolinguistic relations between the English- and French-speaking Canadians, the pre-Confederation era may be divided into two by the event of "massive" English-speaking immigration of "Loyalists" into Canada. Each period, in turn, may be further bifurcated to yield four time frames: (i) the British military occupation of Canada before France formally ceded "New France" to Great Britain, (ii) civilian government in Canada as a British colony before the arrival of Loyalists, (iii) the influx of Loyalists and the two Canadas, and finally, (iv) the "Union period."

In the first four years of military occupation, the British relationship with the French-speaking inhabitants, by and large, seemed devoid of ethnolinguistic tension. Apparently, in view of astronomically disproportionate English/French ratio, lack of knowledge of English language by the French, and the impending international negotiations between Great Britain and France, the English were happy to conduct the military rule in the language of the subordinated people.

However, after the Paris Agreements had been signed and the United Kingdom had formally become the colonial administration in Canada, situation changed. Now, the British Government avowedly wished to assimilate their French-speaking subjects in Canada. The nemesis of this policy, however, was their fractional numerical strength in the colony on the one hand, and the determination of the French Canadians to preserve their identity, *inter alia*, through linguistic uniqueness, on the other. The Francophones persistently defended the use of their language in the official conduct of civil and judicial administration, and even demanded the recognition of French as the *only* official language. The British hands seemed tied because of their miniscule numbers in Canada as compared to the ever-increasing French-speaking population, and the practical necessity of using the French language, for their subjects knew little English.

Despite such odds, French language was denied a *de jure* status, and the French-speaking Canadians had to be on their guard to secure its *de facto* usage. Nonetheless, the tension between the English- and the French-speaking Canadians was generally mute till the influx of the "Loyalists" in Canada. The British Government's explicit desire to anglify Canada by making English as the only language of official use led to much ill-will between the two groups. The Imperial Government's attempt to ease the tension by dividing the Colony along ethnolinguistic lines rather strengthened the French-Canadian foothold as a "nation" -- a distinct people, an ethnic group. The ethnolinguistic disturbance was now mainly restricted to Lower Canada which was predominantly French-speaking. Upper Canada, lacking any substantial number of French Canadians, soon recognised English as the sole official language.

Lower Canada witnessed a valiant defence of French language rights. Even though, for all practical purposes, Lower Canada became bilingual, yet English was the only *de jure* language -- all laws were passed in English only; French texts were always present but were strictly unofficial.

In view of the endemic struggle between the English- and the French-speaking subjects in Lower Canada and also in view of continued assimilationist intensions, the British Government made a revolutionary effort. In a bid to reduce the over-all ratio of Francophones as compared to the English, the Imperial Government united the two Canadas and declared English as the *sole* official language of the Colony.

The Francophone determination to resist the assimilationist designs of the British by defending their language rights, however, persisted. Even though in practice the French language continued to enjoy the status of a working language, French Canadians did not rest in peace till they were successful in getting an official recognition for French language as well, not only in the Union Government but also in the *B.N.A. Act*, that gave birth to the Dominion of Canada.

In terms of assigning a theoretical comprehension of the relationship between the French and the English in the pre-Confederation century, one might find some "support" for all five of the overlapping thoughtways -- "Conflict," "Culture," "Colonialism," "Relative Deprivation," and "Consociationalism."

The relevance of Colonialism, as also of Conflict theory, is seen in the fact that the French-speaking Canadians were indisputably living under the British colonial umbrella before Canada became a Dominion in 1867. The English had the upper hand over the Francophones. The Imperial Government followed an explicit policy of governing their colony through Englishmen. The French were kept out of "responsible" positions in government and judiciary, at least for some time through invocation of the requirement of anti-popery oath, which the Francophones as Roman Catholics would not take. The legislative arm of the colonial government in Canada consisted of nominees of the colonial masters rather than an elected body of the ruled. The Imperial Authorities did not deem it opportune to institute a "representative" democratic system in North America for fear of jeopardising the British hegemony. After the arrival of "Loyalists" from the South, when such elected legislative bodies were contemplated, the colonial government entertained the possibility of levying certain property qualifications to restrict the number of eligible French. Also, while the French were granted guarded religious freedom and the right to abide by their customs and traditions, the language of the colonized subjects was scrupulously and persistently denied a *de jure* status, albeit the use of French as a working language was allowed as a practical necessity. Such measures are also, of course, in tune with the Conflict Model's notion of "social closure."

Cultural conflict between the French and the English was known to historians even before the two people met on the North American soil. The failure of the English to absorb the French despite an explicit policy of assimilation attests to the French-Canadians' deeply rooted "ethnic" feelings. The pride of the two "nations" was acknowledged again and again by various advisory bodies of the Imperial Government.

However, in addition to French determination to protect their separate identity, the chief obstacle to the fulfillment of British assimilationist designs in North

America, was the demographic fact of vast disparity in the numbers of the two people. The English could not afford to use tough measures they implemented in Ireland, for example. In Canada, *first* of all, right from the beginning they had to be accommodative to their subjects in order to dispense with the enormous expenditure they would have had to incur in garrisoning the newly-occupied land. *Secondly*, even in the "teeth" of their desire to assimilate the French, they had to recognize *de facto*, if not *de jure*, the use of French as a working language because the Francophones were overwhelmingly illiterate in the English tongue. *Thirdly*, the British *needed* to be conciliatory to the *Canadiens* in order to save English foothold in North America especially when their Southern Colonies rebelled. And *finally*, it is a fact that the British plenipotents failed in their scheme of persuading a large number of Anglophones to emigrate to Canada. Hence, they made consociational arrangements with the French. For example, while the *Articles of Capitulation* granted the *Canadiens* the liberty to practice Roman Catholicism and to follow civil customs and traditions, the English refrained from explicit recognition of French as an official language. However, in practice, the use of French was unfettered throughout the English rule before Confederation -- even during the first eight years of the "Union Government" when English was declared to be the *sole* official language.

In sum, the French had acquiesced in accepting the status of colonized subjects of the British by opting to stay in Canada rather than emigrating out in the early days of English takeover of North America. However, this submission was *qualified*, for the *Canadiens* demanded and were granted the right to abide by their civil laws and follow their religion, Roman Catholicism. French language was not granted an explicit recognition but then nor was it declared a *lingua non grata*. Nor, for that matter, English was proclaimed to be *the* official language. "Constitutionally" speaking, the matter was not taken up.

In practice, while the policies of the imperial government fit in with the conflict model, and the Francophone subjects expressed their feelings of deprivation particularly with respect to matters pertaining to the administration of justice, their acceptance of a subordinate (colonized) status --albeit preserving their separate entity-- seems uncontestable.

Notwithstanding the "constitutional" status of French religion and civil rights, the British hoped to and worked towards assimilating the *Canadiens* into the English by imposing religious and legal sanctions but *chiefly* through the medium of language. The main strategy for the enforcement of linguistic sanctions, in turn, was the proposition of "drowning" the French population in a sea of English settlers in North America. While the British Government failed in their "dreams" of huge English settlement in Canada the French-Canadians' *"la revanche du berceau"* (the revenge of the cradle) stood them in good "bargaining" stead with the Imperial Authorities. Whereas the English contemplated Anglifying the *Canadiens* through institution of lingusitic sanctions, the Francophones guarded their language with all their "soul and heart," as a defining pillar of their identity. Nevertheless, as colonized subjects, they *pleaded* their loyalty to the Royal Highness and thence sought the use of their language primarily as a tool of communication.

Throughout the pre-Confederal history of Canada, it bears repetition, while the British wanted to amalgamate the *Canadiens* in English by means of linguistic sanctions, and the Francophones protected their ethnic identity by guarding their language, the major stumbling/saving block had been the relative strength of French- and English-speaking inhabitants of the Colony.

The weight of numbers was decisively felt in "tipping" the scales, for example, at the time of bifurcation of the Colony into Upper and Lower Canada along ethnolinguistic lines. The predominantly English Upper Canada soon became English -- in theory as well as in fact. The Lower Canada, on the other hand, was the scene of a cold war between the two ethnolinguistic groups over the issue of language. Later, the union of two Canadas was once again attempted to annihilate the separate entity of the French by enforcing the use of English language. The French, however, did not rest in peace till they had forced the British Government to rescind the articles of the *Union Act* that had downgraded the use of French language. Finally, the status of French and English languages was the main source of Francophone worry in the pre-Confederal deliberations. They sought definite language guarantees before they could accede to join the Dominion of Canada in 1867.

In a nutshell, the English-speaking Canadians persisted in their efforts to assimilate Francophones through linguistic measures, and the Francophones stepped up the defence of their separate identity through linguistic uniqueness. The English designs of Anglifying Canada by "drowning" the French Canadians in a sea of English-speaking population and by declaring English as the sole official language were stymied. The French-speaking population continued to enjoy a disproportionately upper hand over the English because of lack of sufficient immigration of Anglophones in Canada and a remarkable natural growth rate of the Francophones. English language, as we have seen, but for a very short period, could not be granted the sole official language status. And even during that time, French continued to be used as a working language, albeit, an "unofficial" one.

The relative numerical strength of the two people seemed to have played a vital role in the shaping of these events. French Canadians were a ruled people but their politically subordinate status was counterbalanced by the sheer force of their numbers. They nonetheless had to fight for their survival as a distinct people, and the battle was fought over the issue of language with the help of their determination and numbers.

At the risk of oversimplification we may conclude that before Confederation: (a) French Canadians occupied a subordinate status -- subordinate to the English-speaking British subjects in Canada, specifically in the government of the colony. (b) French-speaking Canadians faced the assimilationist designs of their English masters. Assimilation was contemplated chiefly through linguistic measures. (c) Francophones fought for their linguistic rights, and (d) won the ethnolinguistic battle primarily because of their numerical strength.

V. FROM CONFEDERATION TO QUIET REVOLUTION

The *British North America Act* of 1867 was the statute of the British Parliament that ushered in a new era for the colonies of the United Kingdom in North America. The *Act* not only arranged a marriage between two races --English and French-- as Mallory (1967) puts it, but was also, ostensibly, a "nation-making" act in that it joined Nova Scotia and New Brunswick with Quebec and Ontario in the Dominion of Canada.

The English and the French had together inhabited North America for over one hundred years before agreeing to accept a confederal dominion status from the British government. The history of their cohabitation, as we have surveyed in the previous chapter, was replete with mutual suspicion, distrust, and antagonism.

The tenacity with which the two people had refused to merge together despite a century of "coexistence" was a testimony to their deeply rooted ethnic identifications. The French, the conquered people, made it unmistakably clear that their emotional investment in their peculiar identity was too central to be sacrificed. Their widespread differences with the English --the conqueror-- in their laws, their religious affiliations, and their linguistic heritage were difficult to negotiate. From the day of French capitulation to the time of Confederation, the British Government vainly nourished a policy of assimilating the French. The Francophones, however, stalwartly resisted the English designs and successfully maintained their separate entity.

The will to survive as a distinct people with their own language was evidenced in the pre-Confederation debates. The French Canadians jealously secured guaranteed language rights, incorporated into the *B.N.A. Act* -- the Imperial charter that founded the Dominion of Canada. Scrutiny of the *British North America Act*, however, reveals that the statute did not render Canada as an unqualified bilingual country. There is wide agreement among students of the *Act* that *the charter is limited in its recognition of French as an official language of Canada* (De Mestral and Fraiberg, 1966-67; Mallory, 1967; Paradis, 1970; Sheppard, 1971; Wilson, 1974). One may add though that theoretically speaking, English, too, received a restricted *official* recognition.

A. THE B.N.A. ACT, 1867

Section 133 of the *British North America Act* that provided the *sole* direct ruling on languages in Canada after 1867, stated:

> Either the English or the French language may be used by any person in the Debates of the Houses of the Parliament of Canada and of the Houses of the Legislature of Quebec; and both those languages shall be used in the respective Records and Journals of those Houses; and either of those Languages may be used by any Person or in any Pleading or Process in or issuing from any Court of Canada established under this Act, and in or from all or any of the Courts of Quebec.
>
> The Acts of the Parliament of Canada and of the

> Legislature of Quebec shall be printed or published in both those languages.

At first reading, Section 133 of the *B.N.A. Act* sounds quite adequate in recognizing French language at par with English, both at the Federal level as well as in the Province of Quebec, in that either of the two languages could be used in the legislative debates, the use of both is mandatory in the written records of the Quebec and the Federal legislatures, and either of the two languages could be used in the Courts of Canada and Quebec. The French Canadians had apparently been appeased with such explicit provisions while the English Canadians inherited an impression that the former had manipulated more than their due share of concessions.

An incisive look at the language clause, however, betrays its utterly narrow scope from the perspective of the day-to-day working of a country. *First* of all, the language provisions of the *Act* of 1867 were applicable only to the Province of Quebec, and at the Federal level. The *Act* was silent with respect to other provinces. *Second*, even for the two jurisdictions --Quebec and the Federation-- where it did apply, section 133 provided for the use of French language in courts and legislatures, but not in the administrative branches of the governments. *Third*, even in the judiciary of Canada, the language clause of the *B.N.A. Act, 1867* spoke of its application in all Quebec Courts and any of the "Courts of Canada," apparently failing to incorporate Federal administrative tribunals. *Fourth*, while bilingualism was mandatory in the records of legislative proceedings in the Houses of Parliament of Canada, and the Quebec legislature, section 133 did not include the extensive field of subordinate legislation. *Fifth*, the bilingual obligation did not automatically apply to the provincial courts, (other than in the Province of Quebec) while sitting as courts of exclusive competence over Federal jurisdiction, established under section 92(14) of the *B.N.A. Act*. *Sixth*, language legislation was not a separate head in the *B.N.A. Act*. Hence, language provisions were to be ancillary to the various subjects of legislation. And a very important subject, namely, education, was the responsibility of the Provinces, and was outside the application of section 133 of the *B.N.A. Act, 1867*.

It would therefore be productive to examine, (a) what the language provision of the *British North America Act, 1867*, in fact, included, (b) what it excluded, (c) what were the inadequacies in what it included, and finally, (d) what resulted from what it excluded.

Quite apparently official bilingualism was decreed both for the legislatures of Quebec and those of Canada, as well as for the Courts of Quebec and the Courts of Canada. However, some inherent difficulties of legislating laws in a bilingual climate frustrate the play of equitable bilingualism, as will be noticed in studying the process of bilingual legislation in Canada.

B. BILINGUAL LEGISLATION

In consonance with section 133 of the *B.N.A. Act*, the Parliament of Canada and the Legislature of Quebec have adopted some customary practices and some Standing Rules for the process of legislation. Some of the salient features of this process are as follows (Beauchesne, 1958:263; Honsberger, 1965; Ward, 1956-57):

1. In the Federal Parliament, rule 74 of the *Standing Rules of the House of Commons* directs that "All bills shall be printed before the second reading in the English and French languages."
2. Motions, when seconded, must be read in both languages.
3. Private bills can be deposited with Clerk in either language, but "with a sum sufficient to pay for translating and printing."
4. Each version of the Bill passes through parliamentary stages together.
5. Royal assent is required for *both* versions. Thus, in effect, a statute is to be passed in French as well as in English independently and separately.
6. Neither English nor French version is considered superior to the other; neither is considered to be the translation of the other.
7. Each volume of statutes is printed in English as well as in French language.[70]

---

[70] See *An Act respecting the Publication of Statutes*, R.S.C. 1952, c.230

8. There is also indirect protection for bilingualism through representation in Parliament: House of Commons and Senate are constituted in such a way as to guarantee a minimum quota for each province and region.
9. Speakership, by custom, has normally been held alternately by French- and English-Canadians.
10. Deputy Speaker is expected to have "full and practical knowledge of the official language which is not that of Mr. Speaker."

Likewise, in Quebec:

1. Private bills are deposited in both languages together with a fee for translation and printing.
2. Petition to introduce a private bill is required to be bilingually published in the newspapers.
3. First, second, third, as well as the final version of all Quebec statutes are printed and issued in both English and French languages in deference to section 133 of the *B.N.A. Act*.

Various Quebec statutes have ensured this compliance.[71]

---

[71] For example, according to section 14 of the *Interpretation Act* (R.S.Q., 1964, c.1):

> As soon as any statute is assented to, or, if it had been reserved, as soon as the assent thereto has been signified, the Clerk of the Legislature shall deliver a certified copy thereof in French and another in English to the Queen's Printer, who shall print the same.

Again, section 33 of this *Act* requires:

> As soon as practicable after the prorogation of each session, the Clerk of the Legislature shall procure from the Queen's Printer a sufficient number of bound copies of the statutes. He shall deliver to the Lieutenant-Governor a copy in English and French

Notwithstanding the statutory and extra-statutory arrangements, the actual process of bilingual legislation points to the difficulties of translation and the supremacy of the English language.

Translation Difficulties

The universal practice in Canada, at least before 1960, Sheppard (1971) informs, was that the Federal statutes were *first* drafted in English and *then* translated into French.

The task of rendering any language into another, because of the "impossibility" of finding a faithful translation, opens a Pandora's box, as is widely acknowledged by parliamentarians, professional translators, as well as academics and members of judiciary[72] (Canada,

---

[71] (cont'd) languages, for transmission to the Governor-General, as required by the British North America Act, 1867, together with certified copies, in the English and French languages, of every bill reserved for the signification of the pleasure of the Governor-General. He shall also deliver a copy of the statutes, in the English and the French languages, to the Provincial Registrar.

[72] The complexity "of translating a word or sentence spoken or written in one language into another language" is acknowledged by the judiciary. Judge Stable expressed concern on the subject in these words:

> ... to say that you translate one word by another seems to me to be a summary method of stating a process the exact nature of which is a little obscure. A substantive word is merely a symbol which, unless it be a part of a tale told by an idiot, signifies something. If that something is a concrete object such as an apple or a particular picture, the process of translation from one language to another is easy enough for any one well acquainted with both languages. Where the words used signify not a concrete object but a conception of

House of Commons, 27 February, 1934, p. 995; Evans-Pritchard, 1962; Lenneberg, 1953; 1967; White, 1955). The *Report of the Royal Commission on Government Organization* appreciated the difficulty of the task in these words:

> Translation is not and can never be a purely mechanical process which can be undertaken by anyone with a working knowledge of both languages. It must, if it is to be effective, be a paraphrase which takes account of idiom as well as syntax. The professional translator of informational material must have a broad cultural background to enable him to reach beyond comparable idiom and seek equivalent image.

Because of lack of isomorphic relationship between lexicons of one language and those of another a translator would necessarily require to "understand" the intended policy of the legislators. Alas, French translators are reportedly not associated in the initial exercise where the English version goes through various stages of drafting. The translations are rendered by the official translators *after* the final draft is ready in English. No wonder, the French versions are often adjudged to be sloppy and misleading, clumsy, awkward, and almost incomprehensible (Honsberger, 1965:23).

---

[72](cont'd) the mind, the process of the translator seems to be to ascertain the conception or thought which the words used in the language to be translated conjure up in his mind, and then, having got that conception or thought clear, to re-symbolize it in words selected from the language into which it is to be translated [*Dies* v. *British and International Mining and Finance Corporation Ltd* (1939) 1 K.B. 724 at 733]

Difficulties of transfering the intentions and objectives of the legislators in any one language *in itself* is a cumbersome job. The work becomes more difficult if the draftsman knows that the bill is to be translated into another language, because, as Honsberger (1965:323) reiterates a position taken by several others, "not only are the words and syntax different in the two languages but so often too is the approach and psychological perspectives." That such typical problems existed in Canada was acknowledged by the *Royal Commission on Government Organization:*

> In Canada, translation between English and French presents peculiar problems. In each language many words have acquired connotations unknown in the country of origin. French in Canada has absorbed different anglicisms from those adopted in France, as well as many American words and terms, and no good French-American dictionary is available. English usage in Canada has accepted American meanings of some words but adheres to the British meanings of others.

As if articulating the intentions and spirit of policy maker in one language and then finding a suitable translation of it in another language is not difficult enough, the processing of legislation in Canada and Quebec is further complicated by the two systems of laws --civil and common-- "which sometimes use the same words to denote different legal institutions or, conversely, use different terms to describe essentially identical notions." Sheppard (1971:113) asks, for example, as to

> How does one translate *meubles* or *immeuble* into English, or *realty* and *personality* into French? The terms *mortgage on personality* have sometimes been

> translated as *hypothèque sur meubles* although the Quebec civil law system does not recognize hypothecs on movables. What is the French equivalent of *beneficial interest*?

Nevertheless, at the Federal level, it had been found more practical to draft the proposed legislation in English and then to have it translated in French, for a majority of Government officials spoke English and a majority of the Federal departments involved had English-speaking staff. In Quebec, for the same reasons, reverse practice was followed: legislation was drafted in French and subsequently translated into English (Sheppard, 1971).

Lexicologically speaking, when different languages are less than isomorphic, and they always are, there can be ambiguity in one rendering of a bilingual law, or discordance between the two versions of a statute. One may therefore wonder how such discrepancies in bilingual legislation are reconciled.

Discordance in Bilingual Legislation

Historically, the legislature of the Lower Canada, one may recall, adopted a pragmatic approach: criminal law being English in origin and the civil law being French, in case of confusion or conflict the "rules of interpretation" recognised the original version as "the language of the law."[73] In 1859, when *Consolidated Statutes of Canada* were

---

[73] As per rules of interpretation, adopted by the House of Assembly of Lower Canada:

> III. That bills relative to the *criminal laws* of England in force in this province, and to the *rights of the Protestant clergy*, as specified in the act of

compiled it was agreed that any difference between the English and the French versions would be resolved by attending to that which was "most consistent with the Acts consolidated in the said Statutes" (Sheppard, 1971:146). The rule was repeated verbatim in the Act respecting the Consolidated Statutes for Lower Canada of 1861. And as Sheppard informs (p.147), the rule for interpretation of the Revised Statutes of Quebec (revised in 1964), in case of discrepancy between the English and French versions is that "the text which is most consistent with the consolidated laws" is to prevail. However, at the Federal level, there is no such formal rule of interpretation, albeit "the courts have adopted what in effect amounts to a similar rule that both versions are to be consulted and the intention of the legislator determined." For instance, Mr. Justice Thorson P., a judge of the Exchequer Court of Canada, remarked that

---

[73] (cont'd) the 31st year of his Majesty chap. 31, shall be introduced in the *English* language; and the bills relative to the Laws, customs, usages and civil rights of this Province, shall be introduced in the *French* language, in order to preserve the unity of the texts.

> IV. That such Bills as are presented shall be put into both languages, that those in English be put into French, and those presented in French be put into English by the clerk of the House or his Assistants, according to the directions they may receive, before they may be read the first time--and when so put shall also be read each time in both languages--well understood that each Member has a right to bring in the Bill in his own language, *but that after the same shall be translated, the text shall be considered to be that of the language of the law to which said Bill hath reference* [emphasis added, Doughty and McArthur, 1914:105].

> quite frequently the French and English texts of a statute are compared with one another with a view to clarifying its meanings, for Parliament speaks in two languages each entitled to equal respect [*Food Machinery Corporation v. Registrar of Trade Marks*; see also *Composers, Authors and Publishers Association Ltd. v. Western Fair Association*; *The King v. Dubois*.]

Further, in case of ambiguity on account of "divergence between the two texts ... the Court should deal with the matter as it would deal with any other question of ambiguity, namely, seeking to ascertain the true intent of Parliament, following the guidance of the canons of construction recognized as applicable in such cases.[74]

In practice, however, Sheppard discovered (p.147) that whereas only Quebec courts and the Supreme Court of Canada consulted both versions of an act, "the large majority of judges in provinces other than Quebec almost never examine[d] the French version of federal statutes."

Apart from such inherent difficulties of bilingual legislation as finding legitimate translations and resolving confusion, ambiguity, and discordance in laws, and the alleged neglect of French versions of federal statutes in jurisprudential practice in provinces other than Quebec, there were some "oversights" in the bilingual provisions of section 133. The following omissions, for example, contributed to the incompleteness of official bilingualism in the field of legislation and administration of justice:

---

[74] Cf.
- *Bradlaugh v. Clarke*
- *Caledonian Railway Co. v. North British Railway Co.*
- *Grey v. Person*
- *The Queen v. The Bishop of Oxford*
- *Warburton v. Loveland*
- *Waugh v. Middleton*

1. Section 133 did not foresee and hence specify the application of the bilingual principle to the extensive field of subordinate legislation.
2. Bilingualism in the courts was not *ipso facto* applicable in the provincial courts, (other than the courts of Quebec), established exclusively for dealing with matters of federal jurisdiction, under section 92(14) of the *B.N.A. Act*.
3. Section 133 apparently did not apply to the quasi-judicial bodies and administrative tribunals.

We shall now examine the state of bilingualism in these areas.

Subordinate Legislation

The *British North America Act, 1867* "ensured" the use of both English and French languages in the legislatures, both in Quebec and in the federation. However, the bilingual victory of the mid-nineteenth century outlived its full blossom when the twentieth century democracies, including Canada, were inundated with a spate of what may generically be called subordinate legislation, delegated legislation, or administrative law. These laws are drafted and proclaimed by the administrative branch of the government backed by due legal force. Administrative laws are called "subordinate legislation" because they are *subordinate* to the statutes of the legislative branch of a country and the power to frame and enforce such day-to-day rules, ordinances, orders, orders-in-council, regulations, etc.[75] is delegated to the executive by the legislature. In Canada, the term "regulation" is used as a generic term for a variety of subordinate legislation within the terms of the *Regulations Act*.[76]

---

[75] As Sheppard (1971:120) explains:

> An order usually refers to a particular case. Sometimes the term "order" refers to the Order-in-Council or order of the Privy Council authorizing and establishing a regulation or order. The term "rule" usually applies to procedural matters, but it has been used in other contexts. The terms "by-law" and "ordinance" are generally used to describe the rules of a particular organization, board, or commission.

[76] According to section 2(a) of this *Act*:

> "Regulation" means a rule, order, regulation, by-law or proclamation
>
> (i) made, in the exercise of a legislative power conferred by or under an Act of Parliament, by a Governor in Council, the Treasury Board, a Minister of the Crown, or a Board, Commission, Corporation or other body or person that is an agent or servant of Her Majesty in right of Canada, or
>
> (ii) for the contravention of which a penalty of fine or imprisonment is prescribed by or under an Act of Parliament, but does not include
>
> (iii) an ordinance of the Yukon Territory or Northwest Territories,
>
> (iv) an order or decision of judicial tribunal,
>
> (v) a rule, order or regulation governing the practice or procedure of any proceedings before a judicial tribunal, or
>
> (vi) a rule, order, regulation or by-law of a

The increasing number of such subordinate legislations is not covered by the literal interpretation of section 133 of the *B.N.A. Act*. The available research indicates that while a bulk of such legislation (before the Quiet Revolution) --both Federal and Quebec-- is bilingual, a "substantial proportion" thereof is unilingual -- English at the federal level and French in Quebec (Sheppard, 1971:100, 293). Also, those that are bilingual are such as a "result of practical considerations and custom rather than of any constitutional requirement" (Sheppard, p.100). Moreover, these regulations are "almost uniformly" drafted in one language and then translated into the other.

C. LANGUAGE IN COURTS

Section 92(14) of the *British North America Act, 1867*, authorizes the establishment of *Provincial* Courts which may nonetheless try criminal cases that fall under the exclusive jurisdiction of the *federal* government. Section 133 of the *B.N.A. Act* provides for the use of both the languages --English or French-- in all Courts of Canada established under the *Act* as well as in the Courts of Quebec. Apropos, one might deem either of the two languages as official in all courts "designated as the courts of exclusive competence over matters of Federal jurisdiction," albeit established by

---

[76] (cont'd) corporation incorporated by or under an Act of Parliament unless the rule, order, regulation or by-law comes within sub-paragraph (ii) ...[Sheppard, 1971:120-121].

a Province under section 92(14) of the *B.N.A. Act*. Not so, however, as illustrated by the following decisions given by the highest courts of British Columbia and New Brunswick.

Regina v. Watts, ex parte Poulin

In *Regina v. Watts, ex parte Poulin*,[77] the applicant challenged the jurisdiction of the local magistrate in Vancouver, B.C., in trying a criminal charge against her in English. She claimed that, "as a Canadian citizen who speaks only the French language, she is entitled as a right to require that her trial be conducted in French," and therefore, the "magistrate was without jurisdiction to direct ... that the proceedings in his Court would be in English with an interpreter provided to translate them for her."

G.A. Goeujou, speaking for the applicant, advocated that the asserted right to use French in courts was implied from the provisions of the *B.N.A. Act*, whereby *procedures* in criminal matters in Canada rested with the legislatures of Canada and those of civil cases with the provincial legislatures. Since the language of proceedings in a court was a procedural matter and the criminal cases fell under federal jurisdiction, the provincial courts, trying criminal cases, and designated as courts of exclusive federal jurisdiction, were obligated to use either English or

---

[77] *(1968) 69 Dominion Law Reports (2d ed) 526* (British Columbia Supreme Court).

French, as recognised by section 133 of the *B.N.A. Act*, "in any Pleading or Process in or issuing from any Court of Canada established under this Act."

Justice Verchere, J. of the British Columbia Supreme Court, however, dismissed the application on three counts:

1. Provision for English or French in section 133 of the *B.N.A. Act* was restricted to a "Court of Canada established under this Act," whereas the Magistrate's Court at West Vancouver as provincial Court was established under the *Magistrates Act, 1962* (B.C.).[78]
2. "Even if the language in which the proceedings in provincial Courts are to be conducted is no more than a matter of procedure and therefore, when those Courts are Courts of criminal jurisdiction, a matter for the legislative authority of Canada under *section 91(27)*,"[79] to that date, the Parliament of Canada had

---

[78] Writing in 1973, Katz (p. 549) commented that the judgements in *Ex. parte Poulin* did not make any "reference to the authorities which follow and so the decision may have been made *per incuriam* ...." In his opinion, it may be contended that "any provincial court has been, when exercising jurisdiction under the Criminal Code, thereby established as a court of Canada under s. 101 of the *B.N.A. Act* so as to render s. 133 applicable therein." Katz found support for this proposition in an analogous case, that of *Valin* v. *Langlois*, where "the Supreme Court of Canada ... held that Parliament, in conferring on provincial courts the jurisdiction to try actions with respect to controverted federal elections, had thereby created, respecting the exercise of that jurisdiction, federal courts."

[79] The Supreme Court of Canada ruled in 1940 in *The Attorney-General for Alberta and G.C. Winstanley* v. *Atlas Lumber Company Limited* that "with respect to matters coming within the enumerated head of s. 91 of the *B.N.A. Act*, the Parliament of Canada may give jurisdiction to provincial courts and regulate proceedings in such courts to the fullest extent" (see also, *Cushing* v. *Dupuy; Valin* v.

not legislated on the subject, when the Court was a provincial Court.

3. On the contrary, Verchere pointed to the absence of any affirmative statement to repeal what, in his opinion, had since November 19, 1858, been the law in British Columbia relating to the use of the English language in the provincial Courts in the Province."[80]

Regina v. Murphy, ex parte Belisle and Moreau

Coincidentally, a similar petition was filed in the Supreme Court of New Brunswick seeking "an order of *certiorari*[81] quashing a directive by a Magistrate that a

---

[79] (cont'd) *Langlois*.

[80] The Judge documented:

> By the *English Law Act*, R.S.B.C. 1960, c.129, the civil and criminal laws of England, as they existed on November 19, 1858 ... were declared in force in all parts of British Columbia. A part of that law was the statutue of 4 Geo. II, c.26 ... by which it was provided that after March 25, 1733, "... all Proceedings whatsoever in any Courts of Justice within that Part of *Great Britain* called *England*, and the Court of Exchequer in *Scotland*, and which concern the Law and Administration of Justice, shall be in the *English* Tongue and language only ..." I was not referred to nor am I aware of any local circumstance existing in 1858 to make that law inapplicable in British Columbia and consequently, in my opinion, it passed into and became part of the laws of British Columbia upon the passing of the *English Law Act* and has since remained unaffected by any enactment of Canada or of British Columbia.

[81] "*Certiorari* lies where some procedure of an inferior Court constitutes a denial of natural justice, as where an accused is not permitted to make his full answer and defence" (*Regina v. Murphy*).

preliminary inquiry of a criminal charge be conducted in the English language,"[82] on the grounds that the learned judge had, contrary to the request on behalf of the applicants to conduct the proceedings in French for they lacked sufficient knowledge of English, "erred in ordering that by proceeding under the Criminal Code the trial would be held in English which constituted a denial of a civil and constitutional right and a denial of natural justice."

The Counsel contended that the provincial *Evidence Act* admitted that

> In any proceeding in any court in the Province, at the request of any party, and if all the parties to the action or proceedings and their counsel have sufficient knowledge of any language, the Judge may order that the proceedings be conducted and the evidence be given and taken in that language.

Further, the *Canada Evidence Act*, in turn, admitted "the laws of evidence in force in the Province:

> In all proceedings over which the Parliament of Canada has legislative authority, the laws of evidence in force in the province in which such proceedings are taken, including the laws of proof of service of any warrant, summons, subpoena or other document, subject to this or other Acts of the Parliament of Canada, apply to such proceedings.

The Appeal Division of the New Brunswick Supreme Court, however, dismissed this application on several counts:

First, "the laws of evidence in force in the province [did not include] ... the use of language in a Court proceeding,"[83] the latter being a law respecting procedure, that included "pleading," "evidence," and "practice." In the opinion of the Court, "A law respecting the use of language in a Court proceeding is a law respecting procedure, but not ... a law respecting that branch of procedure known as evidence."[84] *Second*,

---

[82] Regina v. Murphy, *ex parte* Belisle and Moreau, in *69 Dominion Law Reports (2d ed), 530.*

[83] The Official Languages of New Brunswick Act, we shall see in the next chapter, however, contains express provisions

> as "procedure in criminal matters" is one of the classes of subjects assigned to the Parliament of Canada by s.91(27) of the *B.N.A. Act*, the Legislature of a Province is without jurisdiction to enact legislation respecting the use of language in criminal proceedings.

Third, historically, English was "indisputably" the only language for the conduct of proceedings in New Brunswick.[85]

---

[83] (cont'd) for the use of either of the two official languages in the courts of New Brunswick.

[84] "Evidence," the Court instructed,

> has been defined as the part of procedure which signifies those rules of law whereby it is determined what testimony is to be admitted, and what rejected in each case and what weight is to be given to the testimony admitted. Procedure, on the other hand, includes in its meaning whatever is embraced by the three technical terms, pleading, evidence, and practice. Practice in this sense means those legal rules which direct the course of proceedings to bring parties into the Court and the course of the Court after they are brought in.

[85] Recalling history, the Court observed:

> The status of English as the official language of our Courts rests on English statute law which became part of the law of the Province when it was established. The provincial Courts have always regarded the English common law and those statutes in amendment of the common law enacted prior to the Restoration of 1660, if applicable to the colonial conditions of the Province, as forming part of the law of the Province....
>
> Prior to the Restoration the Parliament of England on November 22, 1650, passed an Act entitled "An Act for turning the Books of the Law, and all Process and Proceedings in Courts of Justice, into

---

[85] (cont'd) English". By this statute it was enacted, *inter alia*, "That ... all Proceedings whatsoever in any Courts of Justice within this Commonwealth, and which concerns the Law, and Administration of Justice, shall be the English Tongue only, and not in Latine or French, or any other language then [sic] English, Any Law, Custom or Usage heretofore to the contrary notwithstanding."....

Following the Restoration, Parliament in 1960 enacted 12 Car. II, c.3, "An Act for the Continuance of Process, and Judicial Proceedings continued" which declared that the Act of 1650 "be in effect until August 11, 1660 and no longer". Since Acts passed prior to the Restoration if otherwise applicable form part of the law of New Brunswick the repeal of the Act of 1650 in England after the Restoration had no effect on its application here.

English was restored as the official language of the Courts of England in 1731 when Parliament passed 4 Geo. II, c.26 .... This Act provided that after March 25, 1733, ... all Proceedings whatsoever in any Courts of Justice within that part of *Great Britain* called *England*, and in the Court of Exchequer in *Scotland*, and which concern the Law and Administration of Justice, shall be in the *English* Tongue and Language only, and not in *Latin* or *French*, or any other Tongue or Language whatsoever...."

. . . .

English continued to be the official language of the Courts of England when the Supreme Court of Judicature of the Province of New Brunswick was established on November 27, 1784, by Governor Thomas Carleton and his Council pursuant to Royal Instructions issued to the Governor dated August 16, It is noteworthy that, both the Supreme Court of British Columbia as well as the Supreme Court of New Brunswick acknowledged the empowerment of the Parliament of Canada to legislate the mode of procedure --*including the language of proceedings*-- in criminal cases (which were exclusively within the federal jurisdiction, but were) decided in the provincial courts. However, the Parliament had not exercised that prerogative.

---

[85](cont'd) 1784....

> Commissions issued to the first Judges of the Court gave them authority to administer justice according to the laws, statutes and customs of England, and of the Province....
>
> . . . .
>
> .... Accordingly, it has been held that several English statutes respecting practice and procedure, enacted after the Restoration and prior to the establishment of the Supreme Court were in force in New Brunswick. ... in 1784, when this Province was separated from Nova Scotia and the Supreme Court established, the Court by virtue of the Royal Instructions adopted all the practice of the Court of King's Bench of England considered applicable....
>
> In our opinion the Act of 1650 respecting the use of English language is part of the law of the Province and applicable to proceedings in all provincial Courts. In so far as the Supreme Court is concerned, the Statute of 1731 above referred to, being a procedural statute applicable to the Court of King's Bench at Westminster Hall when the Supreme Court was established became part of the statute law governing the procedure of the Supreme Court in this Province.
>
> . . . .
>
> In holding, as we do, that the law in force in this Province requires that criminal proceedings in all provincial Courts be conducted in English, we point out that protection is afforded to the rights of an accused person who is ignorant of the English language when the evidence given at the proceeding is translated to him, and his testimony is translated to the Court.

Administrative Tribunals

The students of law have come to a considered opinion that "administrative tribunals" set up by Quebec or the Federal Government are, strictly speaking, not "Courts," established under the provisions for the establishment of courts, as outlined in the *British North America Act*. Hence, *section 133* that obligates bilinguality in all Courts of Quebec and the Courts of Canada does not apply to the administrative tribunals.

In practice, Sheppard (1971) indicates, there is some bilinguality in the proceedings of the administrative tribunals both at the Federal level as well as in Quebec. However, the use of both French and English in such instances stems out of practical necessity and customary good will rather than any legal requirement. According to the available *estimates* a "great majority" of the cases at the federal level have been conducted in English. But then it is noteworthy that the "cases are always, or almost always, conducted in the language of written proceedings submitted" to the administrative tribunals. Also, even though "of the decisions rendered by the federal admininstrative boards 90 per cent are in English ... they are ... frequently translated into French as the need arises" (Sheppard, 1971:218). Likewise, a "large majority of cases heard by quasi-judicial boards and commissions in Quebec are conducted in French" because of an obvious choice of the parties involved.

Apparently the issue of language of proceedings in such administrative tribunals have not been a source of litigation because of the pragmatic approach --both in Quebec and at the Federal level-- that has catered to linguistic requirements of both the English-speaking and the French-speaking parties.

Areas Lacking in Bilingual Committment

In addition to these falterings of the language provisions of Confederation statute in the field of legislation and judiciary, there were some significant and important areas where bilingual obligation was never committed:

1. The Provinces of Nova Scotia, New Brunswick, and Ontario --that joined the Confederation together with Quebec-- were not included in the language provisions of the *British North America Act*.
2. *Section 133* of the *B.N.A. Act* was silent with respect to the language of Federal or Provincial administration.
3. Language legislation was not a separate head under the *B.N.A. Act*. Hence, the power to legislate in language matters was ancillary to other subjects of legislation -- Federal or Provincial.
4. Education was exclusively a Provincial matter and the *B.N.A. Act* was silent on the subject of language of instruction in education anywhere in Canada.

We shall, however, restrict ourselves to the issues of bilingualism in education, (primarily in Manitoba and Ontario), and the use of English and French in the Federal administration, as they have greatly contributed to ethnolinguistic tension between the two groups.

D. BILINGUALISM IN EDUCATION

Section 133 --the language charter of the *British North America Act, 1867*-- was silent on the language of education in schools of the Dominion. Since language was not a separate head of legislation under the *B.N.A. Act*, the language provisions, if any, became ancillary to legislation on the subject of Education. Education was decreed exclusively as a provincial matter. *Vide section 93*, of the *B.N.A. Act* the Provinces of the Dominion had virtually unlimited power to control education in their respective schools. The main check on their power was religious rather than linguistic.[86]

---

[86] According to *Section 93* of the *B.N.A. Act*:

> In and for each Province the Legislature may exclusively make Laws in relation to Education, subject and according to the following Provisions:--
>
> > (1) Nothing in any such Law shall prejudicially affect any Right or Privilege with respect to Denominational Schools which any Class of Persons have by Law in the Province at the Union:
> >
> > (2) All the Powers, Privileges, and Duties at the Union by Law conferred and imposed in Upper Canada on the Separate Schools and School Trustees of the Queen's Roman Catholic Subjects shall be and the same are hereby extended to the Dissentient Schools

Lack of express protection for bilingualism in schools, however, has been instrumental in encouraging various provinces to legislate language restrictions in schools even where bilingualism reigned at the time of confederation.

Manitoba

The history of Manitoba, before it joined the Canadian Confederation in 1870, presents a striking parallel to the history of "Canada" before 1867. Here, too, the French were the first to settle with the aboriginal Indians. The English joined later, and at the time of Confederation with

---

[86] (cont'd) of the Queen's Protestant and Roman Catholic Subjects in Quebec:

> (3) Where in any Province a System of Separate or Dissentient Schools exists by Law at the Union or is thereafter established by the Legislature of the Province, an Appeal shall lie to the Governor General in Council from any Act or Decision of any Provincial Authority affecting any Right or Privilege of the Protestant or Roman Catholic Minority of the Queen's Subjects in relation to Education:
>
> (4) In case any such Provincial Law as from Time to Time seems to the Governor General in Council requisite for the due Execution of the Provisions of this Section is not made, or in case any Decision of the Governor General in Council on any Appeal under this Section is not duly executed by the proper Provincial Authority in that Behalf, then and in every such Case, and as far only as the Circumstances of each Case require, the Parliament of Canada may make remedial Law for the due Execution of the Provisions of this Section and any Decision of the Governor General in Council under this Section.

the Dominion of Canada, Manitoba --the Red River Settlement-- had *more* French-speaking inhabitants than the English[87] (cf. Jaenen, 1984).

In the proposed Confederation, the Franco-Manitobans were concerned for their survival as a distinct group (Morton, 1957:184). They were apprehensive that a large-scale English-speaking emigration from the Dominion would jeopardise their ability to resist assimilationist designs of the English Canadians (Pope, 1921:1289). As Sir Francis Hincks spoke in the Canadian Parliament during the debate on the Manitoba Bill:

> It was perfectly clear that when the difficulties were settled and the Queen's authority established that a vast emigration would be pouring into the country [Manitoba], from the four Provinces but principally, there was no doubt, from Ontario, and the original inhabitants would thus be placed in a hopeless minority ....

Hence, in negotiating their terms of joining the Dominion, the delegation of the Red River Settlement brought with them a "Bill of Rights" containing some express provisions to safeguard their identity through guaranteed language rights (Ewart, 1894:364-369). Clause 17 of this Bill, for example, required that the Lt/Governor be familiar with both English and French languages, Clause 18 envisaged appointment of bilingual judges of the Supreme Court, and Clause 16 expressly dealt with the language of the government:

---

[87] The distribution of 11,963 inhabitants of Manitoba on 16 July, 1890 was reportedly as follows: Whites = 1565, Indians = 558, French *métis* = 5757, English *métis* = 4083 (Gunn and Tuttle, 1880:467; Morton, 1957:145).

> That both the English and French languages be common in the Legislature, and in the courts; and that all public documents, as well as the Acts of the Legislature, be published in both languages.

Manitoba joined Canada in 1870 after she was assured of the linguistic guarantees that were sought by the Franco-Manitobans. Section 23 of the Canadian Statute that concluded the association of Manitoba with Canada --the *Manitoba Act* of 1870[88]-- was analogous to section 133 of the *B.N.A. Act, 1867* in demarcating the use of French and English languages in Manitoba's legislatures and judiciary. Section 23 provided:

> Either the English or the French language may be used by any person in the debates of the Houses of the Legislature, and both those languages shall be used in the respective Records and Journals of those Houses; and either of those languages may be used by any person, or in any Pleading or Process, in or issuing from any Court of Canada established under the British North America Act, 1867, or in or from all or any of the Courts of the Province. The Acts of the Legislature shall be printed and published in both those languages.

There is also reason to believe that the Federal Government, in those early days, treated Manitoba like Quebec as another bilingual province. The *Rules of the Senate of Canada respecting Private Bills*, for example, required that notices "when published in the Province of Quebec and Manitoba shall be in both the English and French languages." Likewise, the Criminal Code called for mixed juries in both Quebec as well as Manitoba (Marx, 1967:275).

---

[88] S.C. 1870, c.3

The *Manitoba Act* of 1870 was retroactively ratified by the British Parliament in 1871,[89] whereby the Canadian statute became a fundamental constitutional law of Canada that could not be abridged by Manitoba or even by the Parliament of Canada (Marx, 1967:274; Magnet, 1980:242).

As anticipated, Manitoba soon received a steady flow of immigrants, mostly English-speaking Protestants from neighboring Ontario but also from Britain and elsewhere, that reduced the Franco-Manitoban majority within two decades, to a minority (Brady, 1963-64:354-355; Jaenen, 1984; Magnet, 1980:242; Staple, 1974). By 1890 Franco-Manitobans were reduced to a mere 7 percent of the provincial population (Jaenen, 1984:12). The English-speaking immigrants, however, settled in territorially separate districts in Manitoba, thus, leaving the two people distinct and apart. The Manitoban duality was further preserved by the Provincial legislation in those early days of post-Confederation era; provisions were made, for example, for bilingual proclamations, electoral forms, and voters' notices. In addition, while in criminal trials the provision of mixed juries was an affirmed right, in some districts mixed juries were allowed by legislation, even in civil cases (Jaenen, 1984; Magnet, 1980:242).

The days of ethno-political recognition of Franco-Manitobans were, however, limited. The shift in the ethnolinguistic demographic composition of Manitoba from

---

[89] The *B.N.A. Act*, 1871, 34 & 35 Vic., c.28, s.5 (U.K.)

1873 to 1888 was accompanied by periodic legislated redistribution of electoral boundaries that divided the French-speaking districts "so as to decrease the influence of the Franco-Manitoban vote" (Staple, 1974:295). A number of measures adopted in the March 1888 legislative session in Manitoba paved the way for a dramatically different political climate. One principal measure considered by the Assembly provided for sweeping redistribution of the Province into thirty eight electoral districts. This measure was "drastic and reasonably effective," as Morton (1957:232) acknowledges, in replacing "the old concept of *communal representation*" in Manitoba with "the principle of *representation by population*" (emphasis added). The newly settled areas of "new Manitoba" were thus, for the first time, effectively enfranchised and with an amended Elections Act that introduced manhood suffrage in the Province, the English victory in the fresh elections of June 1888 was hardly a surprise. In the new Assembly, Morton (1957:332) recounts, "the government backed with thirty five supporters faced an opposition of [only] five ... [and] of the whole house only six were French."

With the political ascendancy of English-speaking Protestants in Manitoba the Francophone Catholics suspected imposition of restrictions on French language use even though they had won constitutional guarantees to safeguard their language before they agreed to join the federation. However, according to Historian W.L. Morton (1957:240-241), the two sides had cordial relations in the scarce interaction they had, for the two had developed their social and educational institutions independently with little interference in each others' affairs. Religious and ethnolinguistic sentiments were instigated, however, when Mercier Government in Quebec passed *Jesuits Estates Act* in 1888. In settling the issue of the Canadian lands of the Jesuit Order, (that had passed to the British Crown at the time of Conquest and to the Province of Quebec in 1867,) the *Act* requested the Pope as head of the Church of Rome to arbitrate certain disputed claims. As Morton (p.241) says: "This reference to His Holiness, natural to a Catholic community, provoked an outcry among strong Protestants ... that papal intervention was being invited in Canadian politics." In retaliation, the democratic forces in Manitoba, which were overwhelmingly English and Protestant, let their animus loose on Catholic Denominational Schools and the use of French language as the official language in Manitoba. *Manitoba gazette* stopped its bilingual publication in September, 1889 by an "order-in-council" (Jaenen, 1984:11) and in the January 1890 session of the Assembly a bill was introduced to abolish official use of French language in legislature, civil service, government publication, as well as in provincial courts. The Bill was passed and became the *Official Language Act of Manitoba* providing that

> the English language only shall be used in the records and journals of the House of Assembly for

> the Province of Manitoba, and in any pleadings or process in or issuing from any court...
>
> The Acts of the Legislature of the Province of Manitoba need only be printed and published in the English language [S.M. 1890, c.14; R.S.M. 1954, c.187].

The *Official Language Act of Manitoba*, as we shall see later, was however declared *ultra vires* of the Canadian constitution.

The Manitoba School Question

The Manitoba School system, that permitted a system of dual sectarian schools, became the next target of Anglophone attack. The new legislation provided for a single system of non-sectarian schools run by the Government on public money. The Government of Manitoba argued that the new educational system was not only economical and fair with respect to distribution of educational grants but also corrective of the *divisive* nature of the dual sectarian educational system which was illsuited for furthering a commercial society and a united Canada (Brady, 1963-64:355; Morton, 1957:248-249).

Francophones were incensed at being deprived of language rights both in education and in government. Bereft of political force in the legislature they now relied on judicial backing. Section 22 of the *Manitoba Act*, 1870 had explicitly granted the Catholics of Manitoba the right to such schools as they had "by law or practice" at the time of the union.

The litigated issue was the constitutionality of the Manitoba Government in collecting taxes in support of the new non-denominational schools. Both a Catholic, J.K. Barrett, and a Protestant, Alexander Logan, filed separate suits. The disposition of the *Barrett case* presents interesting judicial interpretations. The Manitoba court's judgement *against* Dr. Barrett was reversed upon appeal, by the Supreme Court of Canada. However, on a further appeal to the Judicial Committee of the Privy Council, the matter was finally disposed of[90] in favor of the Manitoba Government.

The School Act 1890 was *intra vires*; "the Catholics possessed at the union only the right to maintain private schools by gifts and fees, and that the Legislature of Manitoba under the constitution could create a tax-supported public school system" (Morton, 1957:269). The Privy Council, however, advised that Roman Catholics could take their grievances to Governor-General in Council for taking remedial steps *vide* section 22 of the *Manitoba Act* and section 93 of the *B.N.A. Act, 1867*. Such a recourse was indeed made, whereupon the Federal Government apparantly sought to avoid the trouble by seeking judicial advice on the Canadian Parliament's jurisdiction to take action on a petition submitted under section 93 and the *Manitoba Act*. The Judicial Committee's verdict in 1895 affirmed the

---

[90] See [1892] A.C. 445 and *Brophy v A.G. Manitoba*, [1895] A.C. 202.

Federal Government's obligation to deal with the Manitoba School Question (Morton, 1957:269-270). The Government of Canada then sent a commission to Manitoba to arrive at a negotiated remedial legislation.[81] The Manitoba Government, however, was non-cooperative and adamant. On February 14, 1895, in the opening speech of the Manitoba Legislature, Lieutenant-Governor took a hard line. The Governor said: "Whether or not a demand will be made by the Federal Government that that Act shall be modified . . . it is not the intention of my government in any way to recede from its determination to uphold the present system" (Ewart, 1895:62). Later, in response to Federal efforts at rendering legislation of Remedial Order by the Parliament of Canada unnecessary, the response of the Government of Manitoba was again inflexible: "It is ... recommended that, so far as the Government of Manitoba is concerned, the proposal to establish a system of Separate Schools, *in any form*, be positively and definitely rejected" (Ewart, 1895:63).

The Manitoba School Question wrought a crisis in the Canadian federal politics leading to resignation by seven ministers in protest against the leadership of P.M. Sir

---

[81] Morton (1957:270) informs that

> the federal commissioners proposed a system of separate schools for Catholic children on the Ontario model, the basis of which was the right of a parent to require in definite circumstances that his taxes be used to maintain a separate school, something different in principle from the dual system of Quebec and of Manitoba before 1890.

Mackenzie Bowell. Bowell was replaced by Sir Charles Tupper as the new Prime Minister, and the Conservatives were forced to contest the general election of a new Parliament on the basis of the School Question, in June 1896. The federal Liberals, led by Wilfrid Laurier, won the election, "especially in the Province of Quebec." Manitoba itself, however, seemed largely unaffected by the School Question. There, the Greenway Government had been returned to office without serious opposition both in 1892 and early in 1896. In Manitoba, the School Question appeared to be a closed issue.

The Laurier Government, having won the election on a promise of finding an amicable settlement of the School Question with the Government of Manitoba, did arrive at a compromise -- known in history as the Laurier-Greenway Agreement. In accord with the Laurier-Greenway compromise, the *Schools Act* was amended in 1897 session of the Manitoba legislature. The amended Schools Act provided for bilingualism in the schools of Manitoba. *An Act to amend the "Schools Act"* (S.M., 1897, c.26, s.10)[92] ordained:

> When ten of the pupils in any school speak the French language, *or any language other than English*, as their native language, the teaching of such pupils shall be conducted in French, *or such other language*, and English ....[emphasis added]

Thus, in Manitoba, French-speaking minority was *just another minority* and when in 1916 Manitoba abolished bilingual schools,[93] "the school system's *Kulturkampf* was directed not only against German, Ukranian and Icelandic immigrants, but also against Franco-Manitobans" (Cook, 1964-65:5). Finally, the 1952 *Public Schools Act* (S.M., 1952, c.50, s.240) decreed that:

---

[92] Also, R.S.M., 1913, c.165, s.258

> (1) Subject to subsection (2), English shall be used as the language of instruction in all public schools.
>
> (2) When authorized by the board of trustees of a district, a language other than English may be used in any school in the district
>
> (a) during a period authorized herein for religious teaching;
> (b) during a period authorized in the program of studies for teaching of a language other than English; and
> (c) before and after the school hours prescribed in the regulations and applicable to that school.

With the decreased numerical strength of Franco-Manitobans, however, the political climate in Manitoba was so neglectful of the binational character of the Province that joined the Dominion, that the government of Manitoba unabashedly ignored even the judicial decisions that declared the *Official Languages Act of Manitoba, 1890* as *ultra vires*. As Magnet (1980:243) recounts, in 1909, the judgement of St. Boniface County Court --ruling the *Language Act* unconstitutional-- was not only ignored but even went unreported. After more than six decades, in 1976, the same St. Boniface County Court *again* ruled the *Act* as *ultra vires* and the judgement was *again* ignored, this time with impunity. To the remarks of the Attorney General of Manitoba that "the Crown does not accept the ruling of the Court with respect to the constitutionality of the Official Languages Act," Mr. Justice Monnin of the Manitoba Court of Appeal retorted that he had yet to encounter "a more arrogant abuse of authority." Subsequently, the Supreme Court of Canada unanimously ruled the Languages Act *ultra vires* of the Constitution.[94]

---

[93] Cf. *An Act to further amend "The Public Schools Act"* (S.M., 1919, c.88) received Royal Assent on March 10, 1916.

The French-English rivalry on the subject of the language of education had had ramifications beyond the provincial boundaries. After Manitoba the school crisis moved to Ontario.

Curtailment of French Language in Ontario Schools

Historically, there is little evidence of restrictions on the use of French language in the schools of Ontario before Confederation. That may perhaps explain why no language guarantees were sought or granted in schools under the *B.N.A. Act* (Marx, 1967). Affirmation sought and secured by the French Catholics related to religious instruction in schools. In the past the denominational schools had had a free hand with respect to French language use in their educational institutions. Hence, the Separate Schools authorities, who ran the denominational Catholic schools, picked up the "cudgels" with the Ontario Government when the latter issued a *Regulation 17*, restricting the use of French language in schools.[95] The matter appeared on several counts, over many years, eventually finding its way all the way to the Privy Council in the United Kingdom.

---

[94] *A.G. Manitoba v. Forest*

Regulation 17, contained in a Circular of Instructions issued by the Ontario Education Department on 17 August, 1913, restricted the use of French in schools --public or separate-- in which French was a language of instruction and communication. Clause 3 of this Regulation directed

> that modifications ... be made in the course of study ... subject to the direction and approval of the chief inspector. In the case of French-speaking pupils, French, where necessary, may be used as the language of instruction and communication, but not beyond Form I., except on the approval of the chief inspector in the case of pupils beyond Form I, who are unable to speak and understand the English language. [Mackell case:73].

The elected trustees of the Roman Catholic Separate Schools in Ottawa defied the Regulation. They challenged it as *ultra vires* of sub-s.1 of section 93 of the *B.N.A. Act*, whereby the provincial legislatures could not make laws that "shall prejudicially affect any right or privilege with respect to denominational schools which any class of persons have in the province at the Union." At the same time, the trustees derived their own right to determine the "kind and description" of the separate schools, duly established under the *Separate Schools Act, 1863.*[96] They contended that the "kind of school" meant "a school where the French language, under the direction of trustees, may be used as a medium of instruction on terms not less favorable than the use of English" (Mackell:71). The matter was final[illegible] rested by the Privy Council in 1917 in the historic case of *Trustees of the Roman Catholic Separate Schools v. Mackell and others.*

---

[95] See also *The Public Schools Act*, S.O., 1896, c.70, s.76(2), for initial emphasis on the English language. The Act made it

> the duty of every teacher of a public school ... to use the English language in the instruction of the school and in all communications with the pupils in regards to discipline and the management of the school, except where impracticable by reason of the pupil not understanding English. Recitations requiring the use of a text-book may be conducted in the language of the text-book ....

Also, R.S.O. 1897, c.292, s.76(2), s.79(2), s.82(5).

Ottawa Separate School Trustees v. Mackell et al.

The Privy Council held that section 26 of the *Separate Schools Act, 1863*, rendered the schools subject to inspection and also subject "to such regulation as may be imposed from time to time by the Council of Public Instruction for Upper Canada." After Confederation, it was observed, the Ontario Education Department had duly succeeded the aforementioned Council of Public Instruction of Upper Canada. The Privy Council further decreed that Education was within the sole jurisdiction of the provincial governments *vide section 93* of the *B.N.A. Act*, save for the four provisions contained therein, and that the language restrictions in question did not prejudicially affect any of the religious rights of the denominational schools as guaranteed by section 93 sub-section 1 of the *B.N.A. Act*. Their Lordships *denied* the claims of the Catholic School trustees that the latter's rights and privileges included the right of deciding linguistic medium of instruction in the denominational schools. They also noted that "at the [time of the] Union no *legal* right or privilege to use the French language [existed] in any denominational school. Further, "the class of persons," to whom rights and privileges were assured in sub-section 1 of section 93 of the *B.N.A. Act*, were *"determined according to religious beliefs, and not according to race or language"* (italics added).

---

[96] 26 Vict. c.5, Upper Canada

The right of the trustees to determine "kind and description" of the separate schools, the Privy Council ruled, could not pertain to language of instruction, for "it cannot have been intended that the language question should be subject to the varying policy of successive boards annually elected." Nor could their "right to manage" those schools "involve the right of determining the language to be used in schools." The Privy Council upheld the judgements of the lower courts in Canada, declared Regulation 17 *intra vires* of the *B.N.A. Act*, and the injunctions of the Ontario Education Department binding on the trustees of the Roman Catholic Schools.

Linguistic and religious rights were thus clearly segregated. The French could not be awarded inviolate right to use French in schools.

In Ontarion, as in Manitoban democracy, the strength of Anglophone numbers facilitated Provincial governments in revolutionizing the tenor of ethnolinguistic policies. Of the two, however, Manitoba presented a classic case of reversal of influence --from French to English-- engineered by demographic revolution.

Other Provinces

Manitoba was not the only Province where the French Canadians lagged behind the English-speaking immigrants who populated new lands and thereby the Francophones in those Provinces faced ethnic suppression, particularly in the field of education. Earlier, in the latter part of the nineteenth century, *NEW BRUNSWICK* abolished the customary (not legal) right of the Acadians to their confessional schools in 1871, and the abolition was upheld by the courts in *Ex Parte Renaud*[97] and *Maher v. Town of Portland*.[98] Next, *PRINCE EDWARD ISLAND*, that had passed laws regulating the linguistic competence of teachers in 1861 (de Mestral and Fraiberg (1966-67:504), abolished French language separate schools in 1877.[99] In *NOVA SCOTIA*, students of law, de Mestral and Fraiberg (1966-67:504) report that "since Confederation there has been no legislation permitting instructions in the public schools ... in a language other than English," whereas, "before Confederation Gaelic, French and German were specifically permitted." In *BRITISH COLUMBIA*, clergymen were barred from holding positions as teachers or superintendents.[100] The history of Manitoba, however, was specifically repeated in *ALBERTA* and *SASKATCHEWAN* in that revolutionary demographic changes radically altered their bilingual character.

---

[97] (1873) 14 N.B.R. 273

[98] (1874) Wheeler's *Confederation Law of Canada*, pp. 338, 362, 367.

[99] *Public Schools Act*, 40 Vict., c.1

The *Northwest Territories Act* of 1875 had provided for the protection of separate schools in the Territories, and in 1877 another federal statute had extended the application of s.133 of the *B.N.A. Act* to the Territories, thus, ensuring equality of the French and English languages. However, Francophones did not migrate in sufficient numbers to preserve their rights and as the new settlers acquired autonomy the French-speaking minorities were ignored (Brady, 1963-64:356, n.3).

Both Alberta and Saskatchewan were carved out of Northwest Territories in 1905 as separate Provinces of Canada by means of the *Alberta Act* and the *Saskatchewan Act*. Section 16 of each Act provided for the continuation of previous Northwest Territories legislation until repealed by Parliament or the respective Legislatures. One such previous legislation included s.110 of the *Northwest Territories Act* which, analogous to s.133 of the *B.N.A. Act, 1867*, envisaged bilingualism in the legislature and judiciary of the Northwest Territories.[101] Neither of the two Provinces specifically abolished the use of French language in their courts or legislatures. Nonetheless, both Alberta and Saskatchewan, in practice at least, have been unilingually English from the very beginning. The French language, as Sheppard (1971:89) notes, "does not appear to have ever been used in the legislatures of either province. Nor is there a single Alberta or Saskatchewan statute requiring that the laws of those provinces be published in both languages, and, in fact, they are published in English only." Further, Alberta has legislated English as a mandatory language for all public records or written processes "to be had or taken" under an Act.[102]

---

[100] *Public Schools Act*, S.B.C., 1958, c.42, s.62

[101] The Northwest Territories Act, R.S.C. 1886; c.50, s.110

The *de facto* unilingualism in Alberta and Saskatchewan has largely escaped from being challenged in the law courts. However, two judicial cases, one in Alberta and another in Saskatchewan, are worth noting in dispelling any notions that French language --officially speaking-- is a *lingua non grata* in these Prairie Provinces.

In *General Motors Acceptance Corporation of Canada Ltd. v Perozni* (1965), Mr. Justice Tavender held that French was a "permissive language" in the Legislative Assembly and the courts of Alberta. The Saskatchewan case is more trenchant and perhaps has come closest to attacking the *de facto* unilingualism in the Province. There, in *R v Mercure* (1981), a speeding motorist demanded that his trial be conducted in French, and that proceedings be delayed until the Crown produced relevant French language statutes. Judge Deshaye affirmed that Saskatchewan was bound by s.110 of the *Northwest Territories Act* and hence obliged by its bilingual stipulation. However, in the opinion of the judge, s.110 neither made it mandatory on the part of Saskatchewan to procure French-speaking judges nor was it obligatory for its legislature to pass statutes in both French and English. Unilingual English publication could therefore continue and availability of interpreters would suffice in the administration of justice. An appeal to the Saskatchewan Court of Appeal is pending on Judge Deshaye's restrictive interpretation of s.110. The result of such an appeal could be far reaching not just for Saskatchewan but also for Alberta as both have identical relationship to s.110 of the *Northwest Territories Act*.

---

[102] According to *An Act respecting the Interpretation of Statutes* (R.S.A. 1955, c.160, s.40):

> When by an Act public records are required to be kept or written process to be had or taken, the records or process shall be kept, had or taken in the English language.

Both Alberta and Saskatchewan have also regulated the language in their schools. English was legally declared to be the official (compulsory) language in Saskatchewan schools, by *The School Act* of 1915 (S.S., 1915, c.23, s.177). French, however, was retained as a "permissive" vernacular for teaching a primary course "to all pupils whose parents or guardians" so desired, provided "such course of instruction ... [did] not supersede or in any way interfere with the instruction by the teacher in charge of the school as required by the regulations of the department." Provided further, the parents were willing to bear the additional cost incurred by the school authorities, of such instruction. Alberta passed identical language provisions for their schools in 1931.[103]

Successive legislations in Saskatchewan further constrained the use of French language at the cost of English. In 1919, English was declared as the sole official language of instruction in Saskatchewan by *An Act to amend the School Act* (S.S., 1918-19, c.48, ss. 3,14; see also *An Act Respecting Schools* R.S.S., 1930, c.131). The use of French as a language of instruction was severely curtailed.[104] Next, *An Act to amend the School Act (No. 2)*

---

[103] *An Act respecting Schools* provided:

> 154. (1) All schools shall be taught in the English language, but it shall be permissible for the Board of any district to cause a primary course to be taught in the French language.
>
> (2) The Board of any district may, subject to the regulation of the Department, employ one or more competent persons to give instruction in any language other than English in the School of the district to all pupils whose parents or guardians have signified a willingness that they should receive the same, but such course of instruction shall not supersede or in any way interfere with the instruction by the teacher in charge of the school as required by the regulations of the Department and by this Act.
>
> (3) The Board shall have power to raise such sums of money as may be necessary to pay the salaries of the instructors, and all costs, charges and expenses of such a course of instruction shall be collected by the Board by a special rate to be imposed upon the parents or guardians of such pupils as take advantage of the same.[R.S.A., 1942, c.175]

[104] As per ss 3 and 14 of *An Act to amend the School Act* (S.S., 1918-19, c.48):

> (3) .... If in any area there exists a public school

(S.S., 1930, c.46) legislated English as the official language, also of school meetings. The chairman, however, was enjoined, "if necessary, [to] provide for the attendance of an interpreter for the benefit of those who ... [could] not understand English" (s.7). Any person nominated for the office of trustee, however, had to be a "resident ratepayer[105] of the district who ... [was] able to read and

---

[104](cont'd) district and a separate school district and it is resolved by the ratepayers of each such school district ... that it is expedient that such districts should be united into a public school district, the minister may ... declare that ... the separate school district shall be disorganised ... and shall be in every respect a part of the public school district.

> 14. Except as hereinafter provided, English shall be the sole language of instruction in all schools, and no language other than English shall be taught during school hours.
>
> (2) In the case of French speaking pupils, French may be used as the language of instruction, but such use of French shall not be continued beyond Grade 1 and in the case of any child shall not be continued beyond the first year of such child's attendance at school.
>
> (3) When the board of any district passes a resolution to that effect, the French language may be taught as a subject for a period not exceeding one hour in each day as a part of the school curriculum, and such teaching shall consist of French reading, French grammar and French composition.

[105] According to *An Act respecting Schools* (R.S.S., 1930, c.131, s.13):

> "Ratepayer" means a person of the full age of twentyone years, who is and has been for a period of two months the owner or occupant of property within the district assessable for school purposes, and, in established districts where an assessment has been made, whose name appears on the last revised assessment roll for the district, and includes the wife of such person when residing with her husband and the husband of such person when residing with his wife ....

write and to conduct school meetings in the English language ..." (s.9). The next year, in 1931, further amendments to the *School Act* held the trustees liable to penalties if they used "the funds of the district directly or indirectly in paying a teacher for teaching a language other than those prescribed ...." (*An Act to amend the School Act*, S.S., 1931, c.52, s.21).

E. LANGUAGE IN FEDERAL ADMINISTRATION

The *British North America Act of 1867* neither prescribed nor proscribed the use of any language in the Canadian public administration.

Historically, bilingual administration in Canada was seen part of the practical necessity at the time of capitulation of Quebec and Montreal -- a practice that survived for almost a hundred years without requiring formal legislation. Specific laws pertaining to the use of language by the government especially in communicating with the public are traced back to the Union days of 1840. Sheppard (1971:246) notes that a number of sporadic[***] legislative measures obligated the use of bilinguality, chiefly in public notices. Yet, before and for long after Confederation, not a single fundamental or general law is found in the statute books that would regulate the use of language in public administration *per se* in its diverse facets and branches.

[***] (cont'd)

[***] Not all legislation dealing with public administration addressed itself to the use of language (Sheppard, 1971:246).

The *B.N.A. Act* lacked in declaring language as a separate head of legislation. Hence, the regulation of use of language was left to legislation under various heads, subject, of course, to the specific linguistic guarantees embodied in section 133 (which, however, did not include Canadian public administration). Thus, guidelines and rules for the use of language(s) in public dealings or within the machinery of the Civil Service were to be governed by the vast amount of ever-increasing ancillary legislation. Consequently, we notice a continuing pattern of sporadic and varied dictates seeking the use of English only, French only, English or French, English *and* French, English or French or both, or finally, no mention of language at all in various specific public administrative legislations.

In the immediate decade before Confederation, the United Province of Canada had clearly arrived at a dualistic pattern of administration; French and English jealously shared the government.[47] According to Sir Richard Cartwright (1912:5), the Union of 1841 was "a marriage de convenance" reminiscent of "the old Roman custom of selecting two Consuls, each representing one of the great parties in the state." Canada witnessed not only dual premiership but also several double-headed ministries, and "double-barrelled" administrative units. The force of dualism split some of the departments "right down the middle, starting at the top with the political head and going down to the sub-divisions of the various branches" (Hodgetts, 1955:55). Institutional bilingualism was particularly noticeable in the departments of Education, Law, Public Works, Crown Lands, and the Provincial Secretary. Thus, administratively speaking, the Union of 1841 was only "skin deep" (Hodgetts, 1955), and "the continued existence of French-Canada as a separate cultural entity was accepted as a recognized fact" (Ormsby, 1969:124). However, it is noted that, despite the high degree of parity between the French and the English in those pre-Confederation days, the French complained of the monopoly of a bulk of positions in the civil service by the English, particularly in the upper echelons of the service -- a complaint that is supported by empirical evidence: The French, who held approximately 35 percent of the headquarter staff positions in 1863, drew only 20 percent of the payroll (Hodgetts, 1955:57).

---

[47] One of the most striking compromises between the forces of duality was the agreement to rotate the very seat of the government, every four years, between Toronto and Quebec City, in the years following 1840 (Hodgetts, [illegible]; [illegible]; 1973:38).

With Confederation in 1867, the strength of the French-speaking Canadians, who had already become a numerical minority *circa* 1851, received an additional blow. Their proportion in the total population of Canada was now reduced to a third (Legendre, 1982:7). In the absence of a guaranteed share in the Federal Public Service, together with lack of pervasive language provisions in the public administration, the French-speaking Canadian civil servants dropped in numbers.

The perceptible imbalance in the English- and French-speaking strength in the Federal Public Service, however, could also be attributed to the division of power between the center and the provinces. Whereas the addition of Nova Scotia and New Brunswick in the Confederation would have added more Anglophones to the Federal Public Service as compared to Fracophones, particularly when the French-speaking minority[108] "within the Maritimes ... counted for very little politically, economically, or culturally," with the transfer of portfolios of education, civil law, and Crown lands to the provinces, the French Canadians in these Federal departments disappeared too. Though the number of English-speaking personnel in the federal service would also have been reduced for the same reasons, Wilson and Mullins (1978:519) think it reasonable to assume that "with a much larger total English-speaking population in the new confederation ... the total disappearance of French Canadians from Education, Civil Law and Crown Lands made a *proportionately* bigger hole in their numbers federally than the disappearance of large numbers of English Canadians for the same departments" (italics added). Unfortunately, the empirical evidence required to substantiate these assumptions unequivocally is lacking, Wilson and Mullins admit, in part, because of the fire in the Parliamentary Library in 1916.

---

[108] About 6 per cent of Nova Scotians and about 15 per cent of the New Brunswick population were French speaking (Wilson and Mullins, 1978:519).

With the passage of the parity position that had provided political leverage resulting in working duality of French- and English-speaking segments in public administration after the Confederation, Professor Hodgetts (1973:34-35) explains, the French were unable to insist on the old administrative pattern of dualism.[109] However, the demand to recognize French as a "charter" language must not have been extinguished, for notwithstanding or perhaps due to the progressive diminution of French-Canadian representatives in the federal bureaucracy --particularly in the senior, higher-paid posts at headquarters" (Hodgetts, 1973:36)-- as early as 1882, the Dominion Government passed the *Civil Service Act*, based on the recommendations of the

---

[109] As a matter of fact, in the first decade after Confederation, lack of representation in the bureaucracy was more loudly complained by the Maritime provinces -- i.e., by geographical units rather than French Canadians.

> A good example is to be found in *Can. H. of C. Debates*, 1870: 'Mr. Burpee objected that the Civil Service was almost altogether in the hands of people from Ontario and Quebec, and in the Lower Provinces this would be felt to be an injustice' (col. 1061); or, again, E.M. Macdonald (at col. 1062) complained that Nova Scotia got only $1000 in salaries and New Brunswick got $10,500 (that is, 'ten representatives' in the Ottawa bureaucracy) out of a total salary bill of $306,000. Prince Edward Island, as a later entrant to the union, had even more difficulty in asserting its claims for recognition, particularly because, as Senator Heath Haviland remarked in a debate in 1873, 'the smaller the pit the more fiercely the rats fight.' *Can. Senate Debates*, 1873, p. 192 (Hodgetts, 1973:36).

Royal Commission to Inquire into the Organization of the Civil Service Commission.[110] (RCBB, Bk. III:99).

Early Language Legislation Regarding Public Administration

The *Civil Service Act* of 1882 provided for conducting of examinations, which were to be in writing "as far as practicable," to enable the preparation of lists of eligible candidates for nomination by the ministers for appointment as public servants under the prevailing patronage system (RCBB, Bk. III:99). The *Act* further provided that all examinations were to be held in English or French language, or both, at the option of the candidate.[111] Further, notification of examinations for recruitment and promotion, and any new regulations on the subject were to be published in the Canada *Gazette* in *both* English and French languages. This legislation sowed the initial seeds of employing the criterion of merit in the selection of public servants which, upon harvest, replaced the traditional patronage system, several decades later in the twentieth century.

The status of French language was further recognised with the 1888 amendment of the *Civil Service Act* that awarded a bonus of $50 to the federal public servants for their bilingual skills in French and English languages. The amendment, however, restricted the medium of examinations to either French or English; the candidates could no longer write in both languages.[112] While the amendment bestowed a greater measure of recognition to the French language, it was quiet with respect to the *use* of language in public service. There, the legislators ignored the Royal Commission's recommendation that federal employees serving Quebec should be bilingual to serve the public satisfactorily (RCBB, Bk. III:99). Thus, the Government saw merit in rewarding bilingual skills monetarily. However, it either did not deem it an element of merit in contributing to more efficient administration of public service, or else, thought it impolitic, to heed the Commission's recommendation of bilingual public servants for Quebec.

---

[110] The Commission, established in 1880, submitted its report in 1881 (RCBB, Bk. III:99).

[111] Statutes of Canada, 45 Vict. 1882, c.4, ss.6, 28, and 29.

Francophone Members of the House of Commons complained that the French language was "woefully neglected ... in the administration of the different departments in Canada." Citing a few examples of such neglect, Monsieur Armand Lavergne, the member for Montmagny, brought to the attention of the House, *inter alia*, the case of Intercolonial Railway. Lavergne informed the House that

> The bill of lading by which the French Canadian sends his freight are always in English and he enters into a contract with the Intercolonial Railway every time he makes a shipment without knowing what he is signing. More than that, I could give you an example of a section on the Intercolonial Railway where there was not one English speaking man on the whole section, from Lévis I think to Ste. Flavie, but where the

---

[112] Statutes of Canada, 1888, 51 Vict., c.12, ss.4-6.

> road-master does not speak a word of French. He has every day to do business with people who do not speak a word of English and I have known cases where that road-master about whom I have made representations to the government, not only could not make his orders intelligible to the employees on that section, but reprimanded them when they could not make them understand their English [H. of C., 25 February, 1907, p.3668].

Following the recommendations of another commission constituted in 1907 to examine the then existing *Civil Service Act*, the Parliament enacted an amendment in 1908 to empower the Civil Service Commission not only to examine but also to recruit civil servants, albeit within a very limited sphere.[113] The over-all "control over all field appointments and many in Ottawa as well" remained with the departmental heads and politicians (RCBB, Bk. III:100). The recruiting authority of Civil Service Commission was further expanded in the wake of World War I, when the Federal Government seemed convinced that the principles of merit and efficiency demanded that the Commission be truly independent -- responsible only to Parliament in the recruitment of Canadian public servants. The revised powers were embodied in the *Civil Service Act* of 1918.[114]

With the *Civil Service Act* of 1918 the Canadian public service took a new lease. While the new Act did not alter the existing language provisions that examinations might be written in English or French, it did mark the significant transition in the mode and criteria of recruitment in the

---

[113] Statutes of Canada, 1908, 7-8 Ed. VII, c.15

[114] 8-9 Geo. V, c.12

Canadian public service.

The age old patronage system succumbed officially[115] to the era of scientific management and recruitment on the principle of merit and efficiency (Kernaghan, 1978:498-499).

Merit Replaces Patronage

The ideology of scientific management called for an orderly classification of duties to be performed by competent, trained, personnel (Wilson, 1973). The selection of these personnel on the basis of "merit principle," according to Dowdell (1968:367), meant that "Canadian citizens should have a reasonable opportunity to be considered for employment in the public service," and that, "selections must be based exclusively on merit, or fitness to do the job."

French Canadians, who were otherwise generally considered more traditionalists and less innovative, were surprisingly supportive of the merit principle replacing the patronage system. The new policy, however, was understood by them as a "*neutral*" device -- neutral to cultural, linguistic and educational backgrounds. According to Wilson and Mullins (1978:521), "during this reform period, efficiency was associated with morality, lack of corruption and neutrality -- all traditional values of the public service."[116] Defenders of both the systems --old and new--

---

[115] In practice it still existed (RCBB, Bk. III, Ch. VI).

[116] Likewise, Nicholas Henry (1980:244) observes that during the reform period, efficiency had been

were found in both of the groups --English- as well as French-Canadians-- in the Parliament, during deliberations over the change. The Members of Parliament for Quebec expressed the same relief in ridding the country of "incubus" of patronage and the same hopes for the merit system as their English colleagues. However, not long after the change, the French-speaking Canadians realized that the way the merit principle was implemented, their cultural and linguistic affiliations were a handicap to them in competing for the civil service positions. Thereafter, the strength of the French-speaking civil servants in the Federal machinery persistently dwindled (Hodgetts *et al*, 1972:474).

Despite some apparent drop[117] in the number of French-speaking public servants in the federal bureaucracy in the first half century after Confederation until 1918, under the patronage system, the Francophones were numerically well-represented in the Civil Service of Canada, though less so at the senior levels (Kernaghan, 1978:498).

---

[116](cont'd) associated with morality and lack of corruption. Efficiency also was 'neutral' .... Thus, a somewhat inconsistent but soothing amalgam of beliefs emerged that packaged together goodness, merit, morality, neutrality, efficiency, science, and the Protestant ethic into one conceptual lump.

[117] Hodgetts *et al* (1972:473) warn that "it is somewhat difficult to gather firm statistical evidence." However, they indicate that the number of French-speaking employees dropped from 36 per cent of the total in 1863 to 22 per cent in 1918. They caution that the population of Francophones had also declined proportionately because of increased immigration and the accession of new provinces.

With the advent of merit system and competitive examinations in 1918, the French-speaking representation in the federal bureaucracy was adversely affected. The new philosophy of scientific management had sought classification of various civil service positions and the subsequent selection of the most meritorious candidate who would vocationally fit with the job specification. In retrospect, however, the process is seen as culturally biased *against* the Francophones, on the one hand, and *in favor of* the Anglophones, on the other. The English- and the French-Canadians understood "merit" differently.

Culture-Specific Merit

The English- and the French-speaking Canadians diverged in their notions of education, training, and merit. The two ethnolinguistic groups were pursuing different goals specific to their cultures. The English were eager to learn *"how to earn a living,"* and hence, their educational system was geared toward *vocational* training, and consequently, their achievement would be gauged by their success in fitting into specific, specialized, jobs in the market. Little wonder, the English system emphasized "practicability of knowledge" and the "marketability of skills."

The French-Canadian system, on the other hand, had diametrically opposed purposes: the highest goal for the French Canadians was to imbue their students with *une formation chrétienne*. Their view of the human existence conflicted with the idea of a "sum total of a number of independent, unconnected roles." For them, "human life" was a system, interconnected into a whole with a central purpose: the preparation of immortal soul for salvation. Hence, their educational system sought to develop a whole man, a *chrétien complet*, by emphasizing disciplines in humanities, liberal arts, medicine, and law.

The competitive examinations conducted by the Civil Service Commission to select meritorious candidates leaned towards the English system of education. For the Commission, merit in the candidate lay in his ability to perform the vocationally classified jobs. By and large, they were not looking for a "whole man" of a *chrétien complet* type. As Hodgetts (1973:38-39) explains, "the traditional orientation of the Quebec educational system towards classics and law ... did not fit into the post-First World War reforms in recruitment for the federal service which stressed 'the merit system' and a detailed job specification calling for more educational or technical skills than the Quebec educational system was prepared to provide." Thus, the Francophones found themselves "discriminated against" by the instruments that were designed to test their calibre. The tests, they complained, were culture-specific, even though translated into the French vernacular, (for the examinations, by law, could be written in either English or French). The *Royal Commission on Bilingualism and Biculturalism* echoed the sentiment in these words:

> Whereas both Francophones and Anglophones had earlier been recruited largely on the basis of patronage, the former were now often shut out for lack of technical qualifications. This relative disadvantage was compounded by the Civil Service Commission's recruiting practices, which were fashioned to correspond with the English-language educational systems. Its examinations, even when translated into French, reflected the patterns of thought and cultural style of English-speaking Canada.[RCBB, Bk.3:101, emphasis added]

An additional blow to the French-Canadian interest was the failure of the government to recognize bilingual competence as an element of merit, that might contribute to efficient civil service in the bureaucracy of a bilingual country, "even for positions which required dealing with both French- and English-speaking clients" (RCBB, Bk.3:102). The Francophones, who alone constituted the bulk of the bilingual force --bilingual in French and English-- failed to win official credentials of merit because, as Hodgetts *et al* (1972:474) note, the policy of "bilingualism and biculturalism in the contemporary sense were simply not part of the universe of political discourse" at the time. It is on record, however, that even though bilingual skills were not granted official and express recognition in staffing decisions, "in practice language often received unofficial 'consideration.' Bilingual personnel were indispensable for some types of positions, particularly in Quebec, but it was more difficult for ... Francophones ... to reach middle level or senior positions" (RCBB, Bk.3:102).

The number of Francophones diminished in the Federal Public Service, however, allegedly also because of a pervasive Anglophone working milieu.

Anglophone Working Milieu

Even though one could get into the service by writing examinations in the French language, the working atmosphere in the service was predominantly English -- where "French Canadians [had] to 'hang up their language with [their] coats'" (Bakvis, 1978:105). The Francophones had to work in an environment of "asymmetric bilingualism," where the English could afford to stay unilingual and the French Canadians had to be bilingual to carry on the work. Further, in a situation where French language, by default, got into second place, Francophones could have been quite discouraged, for they would find themselves in inferior position as communicators (Brazeau, 1958; Hodegetts, 1973:38).

A final factor contributing to the further decline of French Canadians in the federal public service was the extra-meritorious absolute preference given to the veterans in the post-War I era. The whole-sale entry of veterans in government positions, disproportionately affected the French Canadians. Because of the Conscription crisis, most of the returning veterans were Anglophones who filled lower positions, which were usually held by the Francophones in the bureaucratic hierarchy. In the absence of any provisions concerning the language capabilities of employees --even in the predominantly French-speaking areas-- and in the presence of absolute preference for the veterans, the latter took jobs at the cost of Francophones. "Curiously," Hodgetts *et al* (1972:475) criticize, "the sheer *inefficiency* of unilingual service in a bilingual country does not seem to have impressed itself upon English Canadians at the time."

In sum, substitution of patronage by merit, preference for vocational training over classical education, lack of express recognition of Franco-English bilingualism as an asset to the Civil Service, neglect of explicit policy over language of communication between the government and the public, and the unilingual English working atmosphere, together with the grant of absolute preference for veterans, all contributed to the steady decline of French-Canadian representation in the federal public service. It was a time when the spirit of bilingualism and bi- or multi-culturalism lacked the salience that it has come to enjoy in more recent times.

Bilingualism Lacked Salience in Administration

Even "trivial concessions" to French Canadians were considered "wasteful and misguided" (RCBB, Bk. III:103). According to the *Royal Commission on Bilingualism and Biculturalism*:

> In one instance it took over a year to get acceptance from the cabinet and higher reaches of

> the bureaucracy that Quebec offices of the Public Service be furnished with telephone directories in both languages rather than in English only. Another example involved the installation of a separate telephone for the one French-speaking Commissioner of the Civil Service Commission. After a flood of complaints from Quebec MPs that their calls were being met by secretaries who could speak no French, Lapointe attempted to arrange for special telephones, so that incoming calls could be directed to the offices of the individual commissioners. The request was refused by the comptroller of the Treasury, on the grounds that there was no money available, and it took Lapointe weeks of importuning before the minister of Finance reversed this ruling.

Even some symbolic manifestations of bilingualism were adopted with great reluctance and hostile reactions from the Anglophones. For example, on the sixtieth anniversary of Confederation, in 1927, the Government of Canada only "surreptitiously" let the word *postes* appear on postage stamps fearing "that a more forthright approach would provoke bitter opposition" (RCBB. Bk. III:107).

Canadian currency was printed in English only for decades after 1867. Even Laurier --"the symbol of biculturalism"-- did not dare to challenge the tradition. In 1934, upon creation of Bank of Canada with monopoly over issuance of notes, the Bennett government hesitantly authorized the Bank to print some notes in French to be issued to chartered banks upon request. Lapointe's amendment proposing issuance of bilingual currency was defeated. It was not until the return of the Liberal government after 1935 elections that the *Bank of Canada Act* was amended to authorize bilingual notes. However, the enactment was not without a day-long debate and, ironically, without concerns of the Opposition leader, R.B. Bennett, that the measure might threaten harmony between the races:

> Each one in his own conscience must answer whether or not in a community that is overwhelmingly British the circulation of notes of that kind is not fraught with the gravest danger to harmony between races.... I say, sir, that I would be derelict to myself and to my own self-respect if I did not say to my fellow members of this house: I cannot do this thing because it will mitigate against harmony; it will be a factor in destroying the friendly and peaceful relations that should exist in the development of this great country. [H of C 1936 1st session IV, 3781-82; see also H. of C., 25 February, 1907, p. 3641]

The case of bilingualism of Family Allowance cheques presents yet another illustration of governmental apprehension that the country was not ready for the move. Bilingual cheques were first issued in Quebec in 1945 and even as late as 1950s the government was only toying with the idea of issuing one month's New Brunswick cheques "in the two languages with the understanding that if a hue and cry were raised a bureaucratic slip would be pleaded! But even this," the *Royal Commission on Bilingualism and Biculturalism* concludes, "must have been considered too dangerous politically as the idea was quashed." Bilingual Family Allowance cheques were not extended to all of Canada before November, 1962 (RCBB, BK. III:108, n.3).

Apropos, from 1918 to 1938, no new linguistic measures were taken in the Parliament of Canada with respect to public service. However, two isolated incidents took place in 1930s that dramatically revealed that Francophones were not only getting under-represented numerically but also were rarely found among the upper echelons of the bureaucratic machinery. The first awakening came when it was discovered that the proposed Canadian delegation to the Imperial Economic Conference was exclusively composed of Anglophones. Worse, the unilingual composition was not a reflection of a deliberate bias or an oversight, the Under-Secretary of State for External Affairs was reportedly "shaken to find that not a single French-speaking official of sufficient rank [was] to be found in the civil service" (Hodgetts *et al*, 1972:475).

The other evidence was an outbreak of a serious strike at *Trois-Rivières* in 1935. To arbitrate the dispute, the Federal Labor Department sent three officials from Ottowa -- all devoid of French language! This caused an uproar in the House of Commons where the Labor minister was "forced to agree that, in future, efforts should be made to find bilingual officials" (RCBB, Bk. III:104).

Half-hearted Measures

It was against this background that after 1935 stronger protests were made by the Francophones against the lack of French language service to the public whereupon the Parliament acceded to the Lacroix amendment to the *Civil Service Act*. The amended *Act* made it obligatory that the federal employee in a local position in a province ought to be conversant with the language --French or English-- of the majority with whom he had to deal.[118] Subsequently *Civil Service Regulation 32A* of 1942 empowered the deputy heads of the departments to determine the language qualifications for local positions where both English and French were spoken (RCBB, Bk. III:104-105).

The *Civil Service Act* as amended in 1938 was the first formal legal recognition of French as a language of communication with the public (Hodgetts, 1973:37) and incidentally the first explict acknowledgment of facility in French language as a valuable tool to bureaucratic efficiency (Hodgetts *et al*, 1972:476). There is some evidence, however, that the provisions of 1938 amendment act were largely ignored. Hodgetts *et al* (1972:476) have pointed out that "early in 1944 Lacroix himself wrote to Prime Minister King to point out that a unilingual English-speaking official had been appointed clerk appraiser, postal parcels and express, in Montreal. When pressed by Lacroix, CSC Chairman Bland denied that knowledge of the French language was necessary for this post. The Minister of National Revenue concurred in this judgement and ignored Lacroix's protest." Also, an enormous expansion of the Civil Service during World War II brought another toll to the decreasing number of French-speaking employees in the federal bureaucracy: "In the haste to recruit staff in an atmosphere of emergency, informal networks of personal and professional acquaintances became more than ever before the chief means of finding new recruits. The Francophones were even more left out in the cold, and the purposes of the amendment were forgotten" (RCBB, Bk. III:105).

---

[118] According to *An Act to amend the Civil Service Act* (Statutues of Canada, 1938, 2 Geoge VI, c.7, s.1):

> Except where otherwise expressly provided, all appointments to the civil service shall be upon competitive examination under and pursuant to the provisions of this Act, and shall be during pleasure: Provided that no appointment, whether permanent or temporary, shall be made to a local position within a province, and no employee shall be transferred from a position in a province to a local position in the same or in another province, whether permanent or temporary, until and unless the candidate or employee has qualified, by examination, in the knowledge and use of the language of the majority of the persons with whom he is required to do business: provided that such language shall be the French or the English language.

Further Decline in Francophone Representation

The Montreal Chamber of Commerce in briefing the *Royal Commission on Administrative Classification in the Public Service*, (also known as the Gordon Commission), disclosed in 1946 that the over all French-Canadian representation in federal bureaucracy had fallen from the 1918 figure of 21.58 per cent of the total to 19.90 per cent in 1936-37 and to a further low of 12.25 per cent in 1944-45. Even more revealing were the statistics for the senior positions of the rank of deputy minister: in 1918 the Francophones held 14.28 per cent of such positions whereas in 1946 their share was reduced to zero per cent (Wilson and Mullins, 1978:520). The report caused an outburst among nationalists in Quebec. A group of five Francophone Members of Parliament informally started investigating the matter. However, faced with an unprecedented agitation, Prime Minister Mackenzie King commissioned them into a formal committee under the chairmanship of Solicitor-General Joseph Jean. The Jean Committee reportedly recommended to the Cabinet a structure reminiscent of the pre-Confederal dualistic administration: "it wanted three Francophone deputy ministers appointed immediately, and a system of dual Francophone and Anglophone deputies in four departments -- Agriculture, Mines and Resources, Justice, and Trade and Commerce" (RCBB, Bk. III:109). The recommendations were, however, shelved as harmful to the system of appointment on merit and potentially endangering the morale of the Public Service. (RCBB, Bk. III:109). The formal report of the Jean Committee is said to have been finalised but was neither tabled in the House nor published. The *Royal Commission on Bilingualism and biculturalism* tried in vain to secure a copy for their own perusal.

There was a lull for another decade, except for a memorandum from Civil Service Commissioner Alexandre Boudreau, opposing "exclusive determination of the language requirements by the departments." Boudreau favoured uniform application of the principle through the Civil Service Commission. (RCBB, Bk. III:110). Boudreau's view was accepted by his colleagues and became one of the recommendations of the Civil Service Commission (Heeney) Report of 1958.

Heeney Report

The recommendations contained in the Heeney Report went beyond the language provisions of the 1918 *Act* as amended in 1938. The Civil Service Commission expressed dissatisfaction with the public servant merely required to be well-versed in the language of the majority. The Commission recommended that (a) the officials be bilingual in order "to ensure that both English-speaking and French-speaking Canadians are served ... in their own tongue;" (b), "in units of the civil service which include significant numbers of both English-speaking and French-speaking employees, those in charge of such units shall, so far as practicable, be qualified in the use of both English and French," and finally, (c) determination of language qualifications for various positions should be the responsibility of the Civil Service Commission and not that of the government departments (Blackburn, 1969:36; Hodgetts *et al*, 1972:478-479; RCBB, Bk. III:110).

The Civil Service Act 1960-61

The government accepted the recommendations of the Heeney Report and won the approval of the Parliament in embodying them in the *Civil Service Act* of 1960-61, which reads as follows:

> The number of empoyees appointed to serve in any department or in any local office of a department who are qualified in the knowledge and use of the English or French language or both shall, in the opinion of the Commission, be sufficient to enable the department or local office to perform its

> functions adequately and to give effective service to the public. [S.C. 1960-61, 9-10 Eliz. II, c.57, s.47]

The statute was enforced in 1962 (Blackburn, 1969:36). Consequently, whereas *The Public Service Employment Act* (enacted in 1967) authorized the Public Service Commission to prescribe selection standards, *inter alia* as to "language" (cf. *Bauer* v. *Public Service Appeal Board*), it also embodied a separate language provision, *viz.*:

> 20. Employees appointed to serve in any department or other portion of the Public Service, or part thereof, shall be qualified in the knowledge and use of the English or French language or both, to the extent that the Commission deems necessary in order that the functions of such department, portion or part can be performed adequately and effective service can be provided to the public. [See also, *Public Service Employment Regulations*, (SOR/67-129, The Canada Gazette, Part II, volume 101, dated April 12, 1967) issued by the Public Service Commission, pursuant to the *Public Service Employment Act*].

Increase in numbers alone, however, would not resolve the situation, for as Kwavnick (1968:97-98) has pointed out "there is a substantial difference between the position of a junior clerk behind the counter and the position of a senior official in Ottawa engaged in advising upon the formulation of policy." It was the senior level officials where the French Canadians were especially under-represented. And that is where the *Royal Commission on Government Organization* (Glassco Commission) urged the government to pay "greater attention ... to the complex reasons" why the public service was "not attracting and retaining enough highly qualified employees from French Canada" (cf. Wilson, 1974:260).

Glassco Report

The Glassco *Report* recommended providing a working environment conducive to French culture and education, where French Canadians could operate in their mother tongue. According to Glassco *Commission*, "a career at the centre of government should be as attractive and congenial to French-speaking as to English-speaking Canadians" (vol.I:27-29). It also urged the Civil Service Commission to intensify their efforts to recruit more Francophones. The government, it was suggested, should develop bilingual capacities among its employees on a selective basis. The French Commissioner, F. Eugène Therrièn went further and recommended in a separate statement that bilingualism be treated as an instrument of efficient administration (RCBB, Bk. III:111).

The report of the Glassco Commission coincided with the "Quiet Revolution" in Quebec. The Government of Canada undertook a serious review of their bilingual policy. Prime Minister Diefenbaker appointed a Bureau of Government Organisation in December, 1962 to work "on measures to implement the recommendations of the *Royal Commission on Government Organization*, with particular reference to the view expressed in those recommendations by Mr. Therrièn" (Hodgetts, 1972:328). In the May of 1963 a "Senior Officials Committee," appointed to review the Glassco Commission report, favored the setting up of a special body of senior civil servants "'to give sustained attention' to the issues raised by Therrien and to recommend steps to overcome these difficulties" (Hodgetts *et al*, 1972:328). On August 2, 1963, "the Cabinet concurred and established an Inter-departmental Committee on Bilingualism to oversee the implementation of measures designed to cope with the problem." In addition, the Cabinet also directed the Civil Service Commission to prepare proposals for consideration by the inter-departmental committee on recruitment, training, promotion, and assignment, policies and practices in order more fully to meet the bilingual needs of the Federal Public Service (cf. Hodgetts *et al*, 1972:328).

Recommendations of the Civil Service Commission

The Civil Service Commission informed the Committee that the central feature of its program to promote representativeness of the two official language groups was the realization that the language requirements were "an essential element of [the] merit principle and of a policy of effective public administration" (cited in Hodgetts *et al*, 1972:329). In order to provide both bilingual service and a bilingual working environment the Civil Service Commission proposed that (a) bilingual skills or at least the willingness to acquire them be considered as an asset, (b) interviews be conducted in candidates' mother tongue, (c) *general* intelligence tests rather than culture-specific knowledge examinations should be emphasized, and finally, (d) the reception, orientation and briefing of the new

Francophone recruits should be arranged in French language (Hodgetts *et al*, 1972:329).

On February 1, 1966, the Civil Service Commission formally announced their decision to adopt bilingualism as an official policy in the National Capital Region as well as in locations where a need for bilingualism existed (Hodgetts *et al*, 1972:331).

A significant step was taken by the Public Service Commission with the provision, issued in March, 1966, that "any headquarters establishment in the National Capital Region should be considered as serving all Canadians and should, accordingly, be staffed with employees competent in French and English in proportion to the English and French-speaking population distribution in Canada (i.e., about 30 percent of the employees should be competent in the use of French)." (cf. Hodgetts *et al*, 1972:332).

Blackburn (1969:36-37) summarized the far reaching instructions of the Commission as directing, *inter alia*:

> (a) the language composition of the clientele of a department or portion of a department (e.g., a field office) should determine the range of linguistic skills required;
>
> (b) where 10 per cent or more of the clientele was a minority using the English or French language should always be regarded as an asset in the assessment of qualifications;
>
> (c) where 10 to 40 per cent of the clientele was a minority speaking English or French, the number of employees competent in the use of both English and French should ultimately be at least in the same proportion to the whole staff as the minority was to the total number of persons served;
>
> (d) where 40 per cent or more of the clientele was a

> minority speaking English or French, all employees ought to be or become competent in the use of both languages;
>
> (e) when in any unit there were both unilingual French-speaking and English-speaking employees, the supervisor of that unit must be competent in the use of both languages.

Finally, on April 6, 1966, Prime Minister L.B. Pearson addressed the House of Commons on government's policy on bilingualism in the public service.

Prime Minister Pearson Announces Policy of Bilingualism

The Prime Minister expressed his government's hope that "within a reasonable period of years,"

> (a) it will be normal practice for oral or written communications within the service to be made in either official language at the option of the person making them, in the knowledge that they will be understood by those directly concerned;
>
> (b) communications with the public will normally be in either official language having regard to the person being served;
>
> (c) the linguistic and cultural values of both English-speaking and French-speaking Canadians will be reflected through civil service recruitment and training; and
>
> (d) a climate will be created in which public servants from both language groups will work together toward common goals, using their own language and applying their respective cultural values, but each fully understanding and appreciating those of the other.

Reiterating the "desirability" of bilingualism for any Canadian citizen, the Prime Minister stressed that "whereas the need for bilingualism clearly exists in practice, above all in the national capital, it should be recognised as an element of merit in selection for civil service positions."

Also, "in conformity with the merit system ... the requirement for bilingualism should relate to positions, and not only to individuals."

F. SUMMARY: PRECURSORS OF QUIET REVOLUTION

The *British North America Act* of 1867 was an instrument, designed in the hopes of some, to forge a new "nationality." However, the constituent people of the new Dominion remained different "nations" --different people-- albeit governed by one over-all sovereign. George-Étienne Cartier was accurate in his prediction when he qualified the new nation as a "*political*[119] nationality," for the "unity of races was utopian." Speaking in the Parliamentary debates on the subject of forming a "new nationality" with the confederation of the British North American Provinces, Cartier argued:[120]

> if union were attained, we would form a political nationality with which neither the national origin, nor the religion of any individual, would interfere. It was lamented by some that we had this diversity of races, and hopes were expressed that this distinctive feature would cease. The idea of unity of races was utopian -- it was impossible. Distinctions of this kind would always exist.

The French had acceded to join the English under a common political umbrella of the Dominion of Canada after assuring themselves of their continued existence as a people --

---

[119] Italics added

[120] See Canada: *Parliamentary Debates on the Subject of the Confederation of the British North American Provinces.* Hunter, Rose and Co., 1865

distinct in their language, civil laws and religion. *La survivance* had "permitted" Confederation only after securing ostensibly viable linguistic rights.

Confederation of 1867 recognized Canada as a bilingual country by incorporating a specific language clause --section 133-- in the *British North America Act*. Section 133 --the sole language provision in the *Act*-- provided for the use of both English and French in the Houses of Parliament and the Houses of Legislature of Quebec. It obligated the legislative bodies of both the governments to allow French as well as English in their debates, to publish their proceedings in the two languages, and to enact and publish laws in both the languages. Section 133 also ordained the use of both English and French in the Courts of Quebec as well as the Courts of Canada. The guaranteed language rights --limited *de jure* to Federal and Quebec courts and legislatures-- were, however, further restricted *de facto* within these *de jure* provisions.

Under the *B.N.A. Act*, *de jure* bilingualism existed in Quebec and the Federal Government in legislative and judicial spheres. But even there, the sway of bilingual enforcement was uneven. *De facto*, English language was dominant.

At the federal level, for example, the interplay of bilingualism in Parliament was asymmetric. Bilingual legislation, by and large, meant English laws with French translations. Legally speaking, even though French versions were not considered as translations and were independently passed and given Royal Assent, yet, in fact, the actual process of bilingual legislation entailed French translations of statutes first conceived and consolidated in English language. This process resulted in laws that were couched in poor French. Further, apart from the inferior quality of the translations, the French renderings lagged behind the English versions, and in some cases were simply ignored. As Ward (1956-57:158) writes, "for decades ... the French edition of the *Hansard* appeared considerably after the English, while many important reports and documents outside the *Hansard*, Journals, and bills and statutes, were never made available in French at all." Again, while political speeches delivered in English in the Parliament were quickly translated into French, the English versions of the French language speeches "were printed only in the bound revised *Hansard*, normally *several months after the speeches had been made*" (italics added, Ward, 1956-57:158).[121] This state of affairs was changed only as late as 1921 --more than half a century after the Confederation-- and even then the English translation of each week's French speeches could not be made available before the following Monday. Further, "the translation of non-parliamentary reports, including many tabled in Parliament, continued to be slow and unsatisfactory" (Ward, 1956-57:159). In 1934, Mr. C.H.

---

[121] See also speeches made in the House of Commons, 25 February, 1907, p.3647; 24 March, 1920, pp. 696-699; 9 March, 1921, p.698; 5 March, 1934, p.1197.

Cahan, the Secretary of State in the federal government, regretfully acknowledged the delay in the printing of the French version of parliamentary proceedings (House of Commons, 27 February, 1934, pp. 979-980).

Realistically speaking, political speeches had to be made in English by the Francophones also to get across a message. Expediency demanded use of English. Even Francophone Members of the House thought that the French language speeches were only for local consumption, and, consequently, they were likely to pay less heed (Ward, 1956-57:157)! Hence, in view of lack of simultaneous translation facilities, the French-speaking Parliamentarians had to resort to English to be readily understood. Thus, in the Parliament, English and French languages, were not equal, except in a technical sense. For all practical purposes, English was the working language of the Parliament, and French, the language of translation.

For the same set of reasons, despite official bilingualism in the courts of Canada and the Courts of Quebec, in the absence of bilingual judges in the Courts, lawyers could not feel assured of the force of their advocacy in exercising their right of the choice of language. Interpretations were considered poor, and far from being a satisfactory substitute to direct communication in mutually known tongues. Therefore, as Marx (1967:278) puts it: "From very practical considerations, a French-speaking lawyer will hesitate to plead in French in

Supreme Court when he well knows that the majority will not fully understand his argument." Thus, the purpose of *section 133* of the *B.N.A. Act* is defeated, Marx (1967:278) adds, "unless the judges in all Federal courts understand both official languages." In practice, we are informed:

> Judgements are delivered in either language, but generally in English, even by French-speaking judges. The judgements and the headnotes in the Supreme Court Reports are also frequently given in only one language. In Canada an accused can be tried and convicted of murder and yet not be able to read his death sentence. The situation in other Federal courts is no better, if not worse [Marx, 1967:278].

The language provisions of the *British North America Act* were limited in scope also because of its omissions. For example, subordinate legislation as well as administrative tribunals were outside the purview of s.133 of the *B.N.A. Act*. Likewise, the *Act* was quiet with respect to recognition of language(s) in provinces other than Quebec. Nor were there any language provisions for the public administration in Canada. Education was decreed as a provincial subject, and any special guarantees in that field, under the *Act*, were religious rather than linguistic. Finally, language *per se* did not find a place as a separate head of legislation. Hence, all "language laws" were to be ancillary to other subjects of legislation.

Concomitantly, a bulk of subordinate legislation and proceedings in administrative tribunals were conducted in English *only* at the federal level, and French *only* in Quebec. The extent of bilingualism that prevailed in such subordinate legislation was a result of practical considerations rather than due to any constitutional requirements. Also, those that *were* bilingual, were invariably drafted in one language and *then* translated into the other. Likewise, the extent of bilingualism that prevailed in administrative tribunals was a result of practical necessity and not a force of law.

In education, English was declared as the medium of instruction in one province after another. The curtailment of French language use in education was unsuccessfully challenged by the Francophones as *ultra vires*. The Privy Council, the highest court of appeal at the time, gave its verdict in favor of the Provinces as, under the *B.N.A. Act*, Provinces were solely in-charge of educational matters, and the *Act* did not embody any linguistic guarantees in that field.

Another sensitive area that escaped enlistment among the bilingual ones in the *B.N.A. Act*, was the language of public service in Canada. The charter neither prescribed nor proscribed the use of any language in public administration.

Historically, bilingual administration was an unwritten rule --apparently out of necessity-- for about one hundred years after the English joined the French in North America in mid-18th century. With the Confederation of 1867, however, came a drastic shift in the ratio of French and English population in the Federal government and a disturbance in the conventionally established dualistic pattern of administration. Even in the pre-Confederation days French had voiced their resentment over lack of adequate representation in the upper echelon of bureaucracy. After 1867, with reduced French strength in the new Canada, the number of French Canadians in the civil service, as compared to the English, was likely to have been further decreased. Those who remained behind found themselves enveloped in an English milieu, leading to asymmetric bilingualism: the onus of bilinguality fell upon the French who felt forced to learn English to be able to communicate and function in the government machinery. The Anglophones could afford to stay unilingual. The French language, by default, was "second rate."

The French Canadians, therefore, sought and eventually procured the enactment of the *Civil Service Act, 1882* whereby examinations for the civil services could be written in either French or English, as per candidates' choice. An amendment to the 1882 Act also conferred a $50 bonus to the bilingual civil servants in recognition of their linguistic facility. However, so far there was no legal sanction behind the use of particular language(s) in public service.

The French-Canadian share in the federal public services was adversely affected in the 20th century when the merit principle replaced the patronage system. The French members of the Parliament seemed "equally" favorable toward overhauling the services with the introduction of the policy of attracting the most meritorious persons for public service positions. However, it soon became apparent that the French and the English understood "merit" differently, perhaps as a result of their different ideological orientations to the goals of education. For the English, merit inhered in the "marketability" of learned skills and the suitability of vocational training to perform a specialized task. The French Canadians, on the other hand, were still in an era that was appreciative of liberal arts and broad general education that may produce a well-rounded *chrétian complet* person.

Francophones were also dismayed to encounter lack of recognition of bilingual skills as *part* of the merit principle. It is true that the government was awarding a bonus to the bilingual personnel, but the recognition of linguistic facility did not filter down to be counted among the criteria for recruitment. Bilinguality, generally speaking, lacked salience in administration. Francophone efforts to win even seemingly trivial measures in recognition of bilingualism were met with half-hearted provisions. The government of Canada appointed a number of Commissions to investigate the working of the civil service organisation, as well as to elicit recommendations from the Civil Service Commission of Canada with respect to improving the public administration.

The summary recommendations of the various appointed bodies looking into the working of the civil service are enumerated below:

1. Federal employees ought to be conversant in the language --French or English-- of the public served. Preferably, they should be bilingual.
2. Bilingual facility in French and English should be considered an element of merit.
3. The willingness to acquire bilinguality should also be considered as an asset.
4. Persons in-charge of both English and French employees ought to be bilingual.
5. Language qualifications should therefore be attached to various positions.
6. Interviews should be conducted in the candidates' "mother tongue" -- English or French.
7. Efforts should be intensified to attract Francophone recruits/incumbents.

These recommendations were implemented through various enactments of the Parliament and civil service regulations framed by the Government of Canada. The 1938 amendment to the *Civil Service Act* evidenced the first legal recognition of bilingual facility as a valuable tool in the public service, even though in practice the amendment was allegedly largely ignored. The statute of Parliament that virtually brought about institutional bilingualism in Canada was enacted as the *Civil Service Act 1960-61* and was enforced in 1962. The presence of Francophones in the upper echelons of the bureaucracy, however, was still problematic.

G. DISCUSSION

With differences in ethnic origin, tradition, religion, institutions and values, and with equally distinctive political and social aspirations, the English and the French had remained distinctly apart (Jeanneret, 1960:309). Their history of togetherness had been a history of two societies collaborating and facing each other with "different and opposing values and on incompatible positions (one ... catholic, of a minority Latin culture, the other protestant, of a dominant Anglo-Saxon culture) (Legendre, 1982:4). With diverse educational goals and with differences in the purpose of life, the two groups had also had different occupational pursuits. The humanistic education of the French classical colleges had "perpetuated an intellectual tradition which ... [gave] priority to ideas over techniques, [and] to moral obligations over empirical experience" (Falardeau, 1960:28). Whereas the Anglophones were educated and trained to occupy positions in business, technology and engineering, the Francophones were attracted towards agricultural, clerical and lego-medical professions on the one hand, and restrained from pursuing careers leading to "material occupations" in commerce and business, on the other (Bouchette, 1901:163; Trudeau, 1956). Trudeau (1956) succinctly captured the almost automatic opposition between the French and the English in their respective ways of living in these words:

> ... pitted against an English, Protestant, democratic, materialistic, business-minded, and

> later industrial environment, [French] nationalism's system of self-preservation glorified every contrary tendency; and made a cult of the French language, Catholicism, authoritarianism, idealism, [and] the rural way of life .... [cf. Cook, 78:33]

Notwithstanding such divisions --broadly speaking-- the English- and the French-Canadians had a compatible coexistence for the first eighty years of the Dominion. In these eight decades, their *marriage de convenance* apparently endured in the spirit of complementary "needs" and ambitions. The *"Lockean"* English were imbued with the Protestant work ethic (Cook, 1964-65). Their stress was on individual rights and the North American middle-class ideal -- "equality of opportunity" (Cook, 1964-65; Legendre, 1982:14). At the dawn of industrialization the English Canadians found ample room for satisfying their "materialistic" goals. They pursued an educational and bureaucratic system that was in accord in putting a premium on vocational and technical expertise. This majoritarian value system of the English Canadians differed from the minoritarian viewpoints of the French Canadians (Cook, 1964-65).

The *"Rousseauian"* French felt security in "group rights," in cherishing a "general will" to survive. For them the Catholic spirit of working for human salvation as the ultimate goal was supreme (Cook, 1964-65; Legendre, 1982). Their source of contentment lay in the self-actualization of the *chrétian complet* personality devoted to law, medicine, priesthood, and liberal arts

(Cook, 1964-65).

Thus, although any group-oriented claims made by the Francophones *as* French Canadians or *as* Roman Catholics were anathema to the individualist-oriented English Canadians, the Anglophone and Francophone criteria of "making it," of being successful --though different-- were complementary in those early decades of post-Confederation era (Cook, 1964-65).

However, it is noteworthy that the widely differing French and the English --aided by their different occupational pursuits-- led fairly segregated lives. The two people had minimal, business-like interaction. They formed two solitutudes in Canada, even in the Francophone-majority province of Quebec (Cook, 1964-65; Falardeau, 1960; Jeanneret, 1960; Legendre, 1982). As Ferguson (1960:9) observed that "because of differences of race and language, culture and tradition and, to some extent, religion, Quebec remain[ed] a *terra incognita* to almost all English Canadians." But the same may indeed be true with respect to the Francophones' knowledge about the English-speaking fellow citizens (Cook, 1964-65). Worse, because of lack of first hand knowledge, information available to one group about the other might only be a one-sided (negative) story. The recollections of Jean-C. Falardeau (1960:20-21) --a French-speaking Canadian, born and raised in French Canada-- are illustrative:

> In my adolescent years, I went to college in Montreal. I realized there that the whole of the

> province of Quebec was not French and that what was strong and dominant in Canada was English. I saw the two cities within the city. The two parts of Ste Catherine Street ran through them, the ugly eastern part through the French district, the attractive western part through the area of English department stores, cinemas, and hotels. .... The little jungle of Canadian history which I had learned at the primary school was orchestrated, at college, into a Beethoven-like, devastating concerto in which the French soloists were the admirable protagonists in a duel against endlessly renewed English furies. The heroes of my history of Canada then were Papineau, Chenier, Mercier, Bourassa. The 24th of May was celebrated as "le jour de Dollard," not as Victoria Day. The writings of the Abbe Groulx were the stock-in-trade for our rhetorical essays. I had a fairly good geographical idea of my country. I had no idea whatsoever of what life was like outside Quebec. The "English-Canadians" were the descendants of those who had crushed the Papineau rebellion, had hanged Riel, had approved the Canadian participation in the Boer War, and had imposed conscription in 1917.
>
> It was only later, when I was a university student, during the late mid-thirties, that I had my first real contacts with English-speaking Canadians.

Nonetheless, in that era of relative calm the two collided only occasionally when the French Canadians sensed a threat to their cultural existence -- chiefly through usurpation or curtailment of the use of their language. Discord over language use in the schools of Ontario and Manitoba provided exemplary instances. Practical difficulties of lack of communication because of restricted French language use --for example, in courts, but chiefly in the Canadian Civil Service-- provided other grounds for discontentment. However, by and large, with the general recognition of their linguistic, religious, and legal (civil law) rights, the Francophones were apparently content.

With the dawn of industrialisation, urbanisation increased and industry replaced agriculture. In Qubec, in 1890 for example, only thirty seven percent of the population was "urban," whereas in 1931 the same percentage constituted the rural population of the province, and by 1951, more than seventy percent of Quebec's population was living in towns and cities (Jeanneret, 1960:307; Legendre, 1982:9). The rapidity of post-War Two industrial growth in Quebec was illustrated by Legendre (1982:9) who noted that between 1939 and 1950 the relative industrial growth in Quebec exceeded the total growth observed throughout the preceding century, and likewise, between 1941 and 1960, Quebec's agricultural manpower was reduced to one half.

Industrialisation that brought rapid urbanisation in its wake in Quebec, as elsewhere, disturbed the traditional socio-economic order. The Canadians and the *Canadiens* now had an opportunity of working in a relatively greater interactional setting. The traditional division of occupational pursuits between the French and the English --French engaged in agricultural, clerical, and lego-medical professions and the Anglophones occupied with commerce and business-- was upset. The previous ethnic division of *occupations* was now replaced by ethnic division of *labor* between French- and English-Canadians within the same enterprise, *viz.*, industry. Quebec was industrialised with English and American capital and with cheap labor from over-populated Francophone rural areas. In this new framework the economic disparity between the two ethnic groups became prominent and disconcerting for the *Canadiens*. As Legendre (1982:8) put it:

> As farmers or qualified artisans working in their shops, French Canadians [upon industrialisation] became hirelings under foreign employers in their own country. They thus found themselves limited to the least remunerative jobs whereas the management and administrative positions went to the anglophones. There were two main reasons for this. First of all the manufacturers tended for the most part to bring their own administrators, managers, technicians and white collar workers with them or they recruited them [from] within the anglophone community. Moreover, there was a lack of francophone administrators, engineers and accountants due to the fact that the traditional educational system under the control of the Church placed emphasis on the classical humanities rather than on industrial careers.

While the real cause of economic disparity between the French and the English Canadians may be disputed, the Francophone discontent is found in tandem with a perceptible change in their "value system."

After Second World War there was a precipitant shift in the values of the French-Canadian society (Cook, 1965; Kwavnick, 1965; Legendre, 1982; Trudeau, 1956). The Francophone values converged towards those of the Anglophones. The French-speaking Canadians moved some distance away from their previous devotion to the Roman Catholic religion and their Church. The hold of the Church loosened and was replaced by the rising importance of State as a primary instrument to effect change in Francophone lives. Religious values diminished in intensity giving way to the rising ebb of "materialistic" values and secular, vocational education. Their educational system changed its emphasis; it was no longer focused on liberal arts and the study of medicine and law to the neglect of technological expertise. In a nutshell, the two "nations" appreciably converged in terms of their mundane objectives, thereby, breaking the previous division of labor and giving rise to competition to attain the same end: material prosperity (Cook, 1965:10-12; Griffith, 1964:29; Kwavnick, 1965:513).

Apropos, the new emerging elite of educated French-speaking Quebecois resented "the American and English-Canadian capital which controlled more than 75 percent of Quebec's natural resources and industries" (Griffith, 1964:29). Moreover, they were *conscious* of their low status which they attributed mainly to their language handicap. The *Royal Commission on Bilingualism and Biculturalism* pointed out in no uncertain words that French language use in the upper echelons of Quebec's industry was virtually nil. While most of the blue-collar workers were French-speaking Quebecois, the foremen were bilingual and the largely unilingual Anglophones occupied managerial and higher occupational positions in the private sector. The few French Canadians who did rise to such positions were, nonetheless, most often required to work in English. Thus, the onus of bilingualism fell on the Francophones, whereas the English Canadians and the American businessmen could afford to remain unilingual (Guindon, 1978:218); Heller, 1982:110; Morf, 1976:85). This situation was as characteristic of Quebec industry as of the federal Parliament (Ward, 1956-57:157) and bureaucracy. As H.L. Laframboise, Director-General in the Department of National Health and Welfare at Ottowa pointed out

> ... French-speaking Canadians with a faulty command of English have been under an insuperable disadvantage in the public service of Canada. Good ideas imperfectly expressed, or worse, not expressed at all because of difficulties of language, cannot receive consideration. Their originators are erroneously judged as confused, if they expressed themselves poorly, and as dunces, if they express themselves not at all [Laframboise, 1970:312].

Language was not only a barrier in climbing the ladder of senior positions in government but was also a hindrance for the French citizens in obtaining services and information in French (Laframboise, 1970:313).

Lack of recognition of bilingualism in education and bureacracry were further blows to the status of Francophones. But, finally, the telling change in the ambitions (value system) of the Francophone population swung the pendulum.

With ambitions common with the Anglophones, the French Canadians resented what they perceived as unequal access to the attainment of their objectives. The chief culprit obstructing their ascendance to power and the fulfillment of their goals and desires seemed to be linguistic. English language dominated *all* spheres of governmental life, particularly so in the federal civil service, which was seen as a bastion of English-speaking Canadians. The status of French language was now a main stumbling block for the

French in the pursuit of goals, common now to the French as well as the English.

The *subordinate stature of French language* that had remained a somewhat dormant issue for so long now surfaced as the main issue. The Francophones began voicing their feelings and experiences of being under-dogs, under-privileged, and colonised minority of the English. They resented the fact that the French minority outside Quebec did not enjoy the same status, particularly with respect to language rights, as did the English minority in Quebec (Cook, 1964-65:6).

The Francophone concern with their survival as an ethnic group increased, however, as they noticed some changes in the demographic processes. For almost two centuries, despite great losses on account of emigration, the French Canadians had successfully offset the effect of English immigration through their high birth rate (Henripin, 1973; Legendre, 1982). For eight decades --1881 to 1961-- they were able to maintain their proportion in the total Canadian population oscillating around thirty percent -- ranging from 30 percent in 1881 to 30.8 percent in 1951 and 30.4 percent in 1961[122] (Legendre, 1982; Smiley, 1977:182). However, after the Second World War, three significant developments were noticed: (a) with the overall change in the Francophone value system there were signs of an apparent decline in their natural birth rate (Brazeau and Cloutier, 1977; Henripin, 1973:157; Smiley, 1977); (b) a greater proportion of the increasingly non-French non-English immigrants into Quebec (as elsewhere) was "integrating" into the Anglophone community (Brazeau and Cloutier, 1977; Henripin, 1973; Legendre, 1982; Morton, 1981; Smiley, 1977); and (c) the Francophones themselves, especially outside Quebec, were showing signs of gradual assimilation into English Canada (Henripin, 1973).

---

[122] Their percentage did drop down to 27.9 in 1921 as a result of the highest immigration rate in Canadian history (Smiley, 1977:182).

In a capsule, with restricted and inferior status of French language and subordinate positions in the government and industry, and the awareness that the French minority outside Quebec was not receiving the same treatment as the English minority in Quebec, a decline in numbers was seen as ominous by the newly emerging French middle-class that had ambitions of excelling in the material world without losing touch with their linguistic heritage. At a time when Canada was becoming more and more bilingual, after 150 years of "French also," in Quebec, the French-Canadians now insisted on "French only" (Brazeau and Cloutier, 1977:206).

The total situation --legislative, judicial, administrative, economic, and demographic-- was seen by the new Francophone elite as clearly unbalanced and against them. The expressed feelings of discrepant over-all treatment, that became pronounced with the onset of a perceptible shift in the value system of Francophones, culminated in contesting the 1960 elections in Quebec under the banner of "masters in our own house." One could hear a slogan, "if Guinea [a French-speaking African state] can be independent why can't Quebec" (Griffith, 1964:30)? The new Francophone elite won the 1960 elections in Quebec and "inaugurated what has since been called 'the Quiet Revolution'" (Legendre, 1982:9).

In 1960s Quebec underwent some revolutionary changes under the new government (Morf, 1976). The predominant ideology of the new government was "in complete opposition to the traditional ideology." The "State," which was seen with suspicion in the past, now replaced the Church as "the key instrument in the construction of a new society" (Breton, 1973:214; Legendre, 1982:9-10). Control over education, as also over health and welfare passed from Church to State in the new Quebec government (Legendre, 1982:9-10; Morf, 1976). "Instead of conserving a bygone society," the new ideology replaced the traditional "rural vision of French-Canadian society" with an "industrial vision" of a modernised "Quebecois society." Finally, the Quebec government began a new era of negotiations with the federal government, demanding a special status for Quebec, as "the only predominantly French province" (Legendre, 1982: 9-10). Griffith succinctly sums up the prevailing sentiment of the Quiet Revolution and the seeming conditions of a compromise position that entailed (a) recognizing Quebec as the representative of French Canadians --one of the two founding races of Canada-- and hence *equal* with English

Canada, and not just one of the ten provinces; (b) affording Quebec greater autonomy provincially and a greater say in fiscal policies at the federal level; (c) extending to the French Canadians residing outside Quebec, the rights and privileges available to the English in Quebec; and finally (d) revising Canada's federal structure to legitimize Quebec's claim to have an equal voice with the rest of Canada (pp. 33-34).

The Federal Government increased their consociational efforts to arrive at a *modus vivendi* to prevent the break-up of the country.

The history of post-Confederation Canada attests the increased role for the languages in the Canadian Government and the Canadian public administration from a virtual non-recognition to a firm official policy of bilingualism, announced by Prime Minister Pearson on April 6, 1966, in the House of Commons. The Government of Canada aimed at (a) making the Federal bureaucracy more representative, especially at the senior level, (b) creating an atmosphere congenial for Francophones not only with respect to French language but also regarding French cultural milieu, and (c) allowing citizens to communicate with the government in their own language (Smiley, 1977:192).

The Government of Canada under Prime Minister Pearson also established a *Royal Commission on Bilingualism and Biculturalism* to examine the "national" turmoil. In time the B. and B. Commission --the costliest of the Royal

Commissions-- tabled its report and made a series of radical recommendations, steering the country towards more viable bilingualism. We shall consider their suggestions together with the governmental response on them in the next chapter.

The sources of tension between the French- and English-speaking Canadians can be given different theoretical interpretations. For a student of *internal colonialism*, there are ample instances where French Canadians received subservient treatment as compared to the Anglophones in Canada by a predominantly English-speaking government. Limited use of French language, asymmetric bilingualism, curtailment of French language rights, particularly in the educational sphere, and the hold of Anglophones over Quebec business -- all indicate a dominant-subordinate relationship between the two-language groups. A *Conflict theorist* would interpret the discrepant stature of the two language groups in terms of clash of interests and power struggle. However, to be effective, such an advocacy would have to demonstrate that the pursuit of its goals by either of the two groups *necessarily* entailed obstructing the fulfillment of the other group's objectives; that one party *intended* to keep the other subjugated. The *Culturalist* would of course "explain" the distance between Anglophones and Francophones by pointing to their "inherent" differences in styles of lives, values, traditions, etc. For them, the relatively slow economic progress of the French Canadians would be understandable as in line with the way the Francophones are (or were): religious-minded, contented with their lot, believing in pre-ordained destiny, searching for "salvation," desiring larger families, valuing stronger kinship bonds, avoiding relocation even for better economic prospects, and finally, educationally ill-equipped with relevant vocational skills. For the *Relative Deprivation* theorist, a genuine clash or conflict between the two groups would require that the discrepancy, maltreatment, usurpation of rights, etc., be *felt*. The Relative Deprivation model interprets Franco-English ethnolinguistic tension during the Quiet Revolution. The Francophones of Quebec now began *expressing* their resentment over the fact that French-speaking minorities outside Quebec were not receiving the privileges that were enjoyed by the Anglophone minority in Quebec.

Whichever interpretation is taken into account, one element in this period --Confederation to Quiet Revolution-- seems common with the pre-Confederation history, *viz. Francophones' concern with their survival as a distinct group. Moreover, this concern has been vented through their demand for greater recognition of French language.* In the light of Franco-English relationship from 1867 to 1960s, one could argue that, French Canadians not only continued to guard against any incursions on their language rights, but also relied on their language as an instrument for their survival, and hence, sought greater recognition of French language, particularly so, in the federal bureaucracy.

It is interesting to note also that in the dynamics of interethnic tension between the English- and French-Canadians, *demography continued to play a crucial role in the acceptance or denial of French language claims.* Manitoba presents a classic case where both French and English languages were assigned guaranteed rights in 1870 when Manitoba, with a predominantly French-speaking population, joined the Confederation. However, within twenty years, after massive Anglophone migration in Manitoba that reduced the French-Canadian majority to a numerical minority, Manitoba passed an Act declaring herself an English province with English as the sole official language.

VI. FROM QUIET REVOLUTION TO REPATRIATION

In the wake of the "Quiet Revolution," the Parliament of Canada gave a mandate to the *Royal Commission on Bilingualism and Biculturalism* (RCBB) to recommend steps "to develop the Canadian Confederation on the basis of an *equal partnership between the founding races*" (cited in Bakvis, 1978:104) (emphasis supplied). Without going into the debate on the justification for *equal* partnership between the French and the English, one could study the *Commission*'s examination of the Canadian situation in light of the received mandate. The *Commission* aptly observed that: "There does not exist [in Canada] a fully developed linguistic regime expressing the bicultural character of the country as a whole and based on well defined and fully accepted legal rights" (Book I:69). It, therefore, recommended "a new status for the official languages in Canada" in that both French and English be *formally* declared as the official languages of Canada "*in law and in practice, wherever the minority is numerous enough to be viable as a group*" (Book I:73, 86).

A. RECOMMENDATIONS OF THE ROYAL COMMISSION ON BILINGUALISM AND BICULTURALISM

Some of the salient recommendations of the *Commission* are enumerated below:

1. The *Commission* recommended that "English and French should be formally declared the official languages of

the Parliament of Canada, of the federal courts, of the federal government and of the federal administration."

2. Without imposing "a formal system of quotas or ratios" the *Commission* sought that the senior administrative positions in various federal departments, agencies, and crown corporations should reflect an "effectively balanced participation" of English- and French-Canadians.
3. It was deemed desirable that the public be able to deal with the federal government in both the official languages "even in the completely unilingual sections of the country."
4. All federal publications --forms, notices, etc.-- should be simultaneously available in both languages.
5. In addition to complete bilingualism in Quebec, the provinces of New Brunswick and Ontario should declare themselves as officially bilingual. This recommendation followed from the fact that the French constituted 35% of the population in New Brunswick, and in Ontario, though only 7%, they "made a global mass of about 600,000 people."
6. Provinces other than Quebec, New Brunswick and Ontario should proclaim themselves officially bilingual when their English- or French-speaking minorities reached the level of 10% of the total provincial population.
7. In the meantime, the *Commission* recommended that "bilingual districts" be established in the officially

unilingual provinces having geographical areas with 10% or more of an official language minority. These "bilingual districts" were expected to have institutionally bilingual public administration to enable the public to interact with the government in the language of their choice. All official publications were expected to be simultaneously available in both English and French languages in these bilingual districts. The demarcation of these territories was open to negotiation between the federal authorities and the concerned provincial government.

8. There was also to be an officially bilingual National Capital Region.
9. To facilitate institutionalized bilingualism the *Commission* also recommended the establishment of French Language Units (FLU) in the public service.
10. In order to oversee and monitor the implementation of the bilingual program the *Commission* recommended the creation of an office of Commissioner of Official Languages charged with ensuring respect for the status of English and French.
11. The right of the parents to choose the language of instruction for their children was to be recognized in the educational system in all provinces with the degree of implementation being dependent on the concentration of minority population.
12. Provincial education laws should provide for schools in

either of the two official languages where minority strength warranted it.

13. Official bilingualism of Canada should be asserted by federal government in preparing all the departments and embassies to be able to work bilingually.
14. Agreements between the federal government and the provinces should either always be bilingual or in the language of the provincial majority, and in case of the officially bilingual provinces, in both languages.

Pierre Elliott Trudeau, who was Minister of Justice at the time of deliberations of the *Royal Commission on Bilingualism and Biculturalism* (appointed under Prime Minister Pearson) had already publicly echoed the need for recognizing the French language as legally equal to English. In 1965, while at the *Institut de Recherche en Droit Public* at the University of Montreal, he asserted:

> At the federal level, the two languages must have absolute equality. With regard to legislative and judicial functions, this is already theoretically the case, according to Section 133 of the constitution; but the theory must be completely incorporated into actual practice so that, for example, any law or ruling is invalid if the English and French texts are not published side by side. This concept of equality must also be put into effect by management and by the courts.... It is obvious that if such rules were applied overnight, they would result in a great many injustices and might indeed bring the state machinery grinding to a halt. But the introduction of such reforms must nevertheless be carried out according to a fixed schedule set by law ... the reforms I am proposing must therefore be written into the constitution itself, and must be irrevocably binding upon both the federal and provincial governments ... the guarantees contained in Sections 93 and 133 of the

> constitution must be extended and incorporated into a clear, imperative text....

Trudeau envisaged the incorporation of a Bill of Rights into the constitution to "specifically put the French and English languages on an equal basis before the law." (cf. Wilson, 1974:266)

In the Constitutional Conference called by Ottawa in February, 1968 the Prime Mininster submitted his proposed Bill of Rights, together with the recommendations of the "B. and B. Commission," to the Provincial Premiers. The Provincial Premiers, however, opposed the proposed Bill of Rights, albeit, they appeared willing to consider possible implementation of the *Report* of the *RCBB* (cf. Wilson, 1974:283

B. OFFICIAL LANGUAGES ACT

In light of the recommendations of the *Royal Commission on Bilingualism and Biculturalism*, the federal government quickly introduced a bill --entitled, *An Act respecting the status of the official languages of Canada*-- in the federal Parliament, on October 17, 1968. Successive readings of the bill were delayed apparently to permit public scrutiny and criticism. After some amendments, the Bill, short titled as the *Official Languages Act*, was passed on July 9, 1969 and came into force upon Royal Assent on September 7, 1969.

Salient features of the *Official Languages Act* that tended to fill in some of the lacunae of s.133 of the *British North America Act of 1867* will be discussed below.

For facility of examination, we shall discuss the *Act* under four heads: (a) declaration of official bilingualism, (b) language in legislation, (c) language in government, and (d) language in courts.

Official Bilingualism

Canada was formally declared to be an officially bilingual country for all purposes of Parliament and Government of Canada. The two "official languages" --English and French-- were given equal status and equal rights and privileges with respect "to their use in all the institutions of Parliament and Government of Canada."[123]

The concept of formal recognition of "official languages" in the constitutional histories of the world is probably not very old. The term lacks a formal definition. It is typically described by its domain of application. However, formally speaking, the hallmark of an official language that would distinguish it from a non-official one would be the *legal* weight of the former. According to de Mestral and Fraiberg (1966-67:502), an official language is one that is "*ordained by law* to be used in the public institutions of a state; more particularly in its legislature and laws, its courts, its public administration and its public schools" (emphasis supplied). Thus, the significance of an official language is restricted to a degree to its legally circumscribed usage.[124] By virtue of the *Official Languages Act*, French and English, as the official languages of Canada, were purported to enjoy equality of status, rights, and privileges with respect to their use in all Parliamentary and governmental institutions. The use of English and French and the "equality" of their status was further clarified in other details of the *Official Languages Act*, as we shall see below.

---

[123] R.S.C. 1970, c.0-2, s.2

Official languages Act and Bilingual Legislation

Under the *Official Languages Act*, (a) "all rules, orders, regulations, by-laws and proclamations ... required by or under the authority of any Act of the Parliament" are to be published in both languages,[125] and (b) both versions

---

[124] One could argue, however, that the *symbolic* import of elevation of a language to "national" or "official" status would be there, irrespective of any tangible applications of such a status.

[125] As per s.4 of the *Act*:

> All rules, orders, regulations, by-laws and proclamations that are required by or under the authority of any Act of the Parliament of Canada to be published in the official gazette of Canada shall be made or issued in both official languages and shall be published accordingly in both official languages, except that where the authority by which any such rule, order, regulation, by-law or proclamation is to be made or issued is of the opinion that its making or issue is urgent and that to make or issue it in both official languages would occasion a delay prejudicial to the public interest, the rule, order, regulation, by-law or proclamation shall be made or issued in the first instance in its version in one of the official languages and thereafter, within the time limited for the transmission of copies thereof or its publication as

of an enactment "in the official languages are [considered] equally authentic."[126] In case of conceptual ambiguity in the two versions of a term used in an enactment, the *Official Languages Act* directs that the term be given an interpretation which may be "apt" in *both* versions of an enactment. Further,

> where a concept, matter or thing in its expression in one version of the enactment is incompatible with the legal system or institutions of a part of Canada in which the enactment is intended to apply but in its expression in the other version of the enactment is compatible therewith, a reference in the enactment to the concept, matter or thing shall, as the enactment applies to that part of Canada, be construed as a reference to the concept, matter or thing in its expression in that version of the enactment that is compatible therewith ....
> [s.8(2)(b)]

In all other cases involving conflicting interpretations of the two versions of an enactment the version that seems to be close "to the true spirit, intent and meaning of the enactment" is to prevail [s.8(2)(d)].

Lack of identical versions of an enactment presents a perennial problem in bilingual legislation. Hence, since the *Official Languages Act*, the judiciary in Canada has had to adjudicate in several cases[127] involving conflicting

---

[125](cont'd) required by law, in its version in the other, each such version to be effective from the time the first is effective. (1968-69, c. 54, s. 4.)

[126] R.S.C. 1970, c.0-2, s.8(1)

[127] To list a few:
- Azdo *v* Minister
- C. Itoh & Co. (Canada) Ltd. *v* Deputy Minister for National Revenue for Customs and Excise
- Queen *v* Jean B.
- R *v* Dollan and Newstead
- R *v* O'Donnell

interpretations of French and English versions of the same enactment. An overview of these cases indicates that the conflict is resolved in different ways.

In *C. Itoh & Co.* v. *Deputy Minister of National Revenue for Customs and Excise*, for example, the question at issue was "whether the word 'canvas' for 'toile' in tariff item 61110-1 can be taken to refer to fabric made from synthetic materials such as nylon." It was argued that "toile" in French referred to "a plain weave cloth which could be made from a variety of materials, e.g. *toile de nylon, toile de crochet, toile de canevas, toile metallique,* etc." Whereas "the common meaning and usage of the word 'canvas' refers to cotton canvas, a naturally stiff and watershedding material." Thus, *toile* had broader meaning than canvas and the Tariff Board decided that "the *version containing the narrower interpretation*" should prevail.

In *R.* v. *Woods*, on the other hand, the judge decided *against* adopting the "narrower meaning" of one vernacular if "such meaning would clearly run contrary to the intent of the legislation and would consequently tend to defeat rather than assist the attainment of its objects" (p.154). He favored the adoption of the construction most favorable to the accused as was done in some other cases.[128]

Finally, *Re Price* illustrates the class of judicial decisions where the anamoly between English and French

---

[127] (cont'd) - R v Woods [Ontario] (1980)

[128] R. v. O'Donnell and R. v. Dollan & Newstead.

versions was resolved by seeking the intention of the Parliament by studying the history of the Act in question. In *Re Price* the judge ruled in favor of the French version even though the accused was charged under the English version, for the two versions of the statute were, *vide Official Languages Act s.8(1)*, equally authentic.

Language in Public Administration

In terms of bilingual public service, the *Official Languages Act* provided

1. that "Governor in Council may from time to time by proclamation may establish ... federal bilingual districts ... in a province ... if ... the number of persons who are in the linguistic minority in the area in respect of an official language spoken as a mother tongue is at least ten per cent of the total number of persons residing in the area,"
2. that public should be able to "obtain available services from and can communicate with ... [the Government] in both official languages" both "within the National Capital Region ... and at each of its principal offices in a federal bilingual district ... [and] to the extent that it is feasible ... [in other locations] where there is a significant demand ....",
3. that service in both official languages is provided to the travelling public whenever any service to them is provided or made available by the government and there

is a "significant demand" for both the languages, and finally,

4. that all federal notices be published in both the official languages.

On paper the measures envisaged in the *Official Languages Act* to promote bilingual service in public administration appear encouraging. However, the difficulty comes when they are put to test. For example, can a man charged with driving with an excessive blood alcohol content be served with a *uni*lingual notice of Intention to Produce Certificate Evidence? Apparently, one would expect that such a notice would be a public notice and would, therefore, necessarily be in both the official languages. Not so, the Appeal Division of Nova Scotia Supreme Court ruled in *R. v. Saulnier*. Saulnier had contested the validity of the notice served on him in the English vernacular *only*, as repugnant to the provision of bilingual public notices under the *Official Languages Act*. In the opinion of the Appeal Division, however, in the strict legal sense, the notice in question was required under s.237(5) of the *Criminal Code* and it was a notice "to the accused" rather than one intended "for the notice of the public," as per s.3 of the *Official Languages Act*. Further, to the Court, it seemed obvious that the "Parliament did not intend that s.3 of the *Official Languages Act* would apply to all notices issued under the authority of Parliament otherwise the words 'directed to or intended for the notice of the public' would have been omitted from the section."

It thus remained a fact that even after the enactment of the Official Languages Act *an accused, who had facility in only one of the official languages could be served with a notice written in the* other *official language even if it were unintelligible to him.*

Likewise, notwithstanding the fact "that even though a position in the Public Service may have been designated [as] 'bilingual'" by the federal government, in certain circumstances, it was recognized that a "unilingual incumbent would be able to continue in the position." In *Kelso* v. *Canada*, Judge Dickson J.--writing on behalf of the Supreme Court-- referred to "a Joint Resolution of the House of Commons and the Senate of Canada,"[129] that recognized

> (6)that unilingual incumbents of bilingual positions may elect to become bilingual and undertake language training, or transfer to another job having the same salary maximum, or, *if they were to decline such a transfer, to remain in their positions even though the posts have been designated as bilingual*; (italics added)

The same sentiment --retention of unilingual incumbents of positions identified as bilingual-- was later reflected in a circular issued by the Treasury Board.[130] Mr. Justice

---

[129] Journals of the House of Commons of Canada, June 6, 1973, No. 97.

[130] According to this circular # 1973-88 of June 29, 1973:

20. Unilingual incumbents of positions identified as bilingual will be given the opportunity of taking up to twelve months in language training to enable them to become

Dickson acknowledged that even though the Joint Resolution of the federal legislative bodies "may not be legally binding, in the sense of creating enforceable legal rights and obligations, it is, nonetheless indicative of legislative intention." The Supreme Court, therefore, decided that Mr. Donald Kelso --a unilingual Anglophone-- who was employed as an Air Traffic Controller in the Montreal Area control Centre and was transferred in May 1978 "under protest" to the Transport Canada Training Institute in Cornwall, Ontario, was entitled to be reinstated to his previous position.

Language in Courts

The *Official Languages Act vide* s.5(1) required that:

1. "all ... decisions, orders, and judgements ... issued by any judicial or quasi-judicial body established by or pursuant to an Act of the Parliament of Canada shall be issued in both official languages."
2. All judicial and quasi-judicial bodies established by or

---

[130] (cont'd) bilingual. If they choose not to become bilingual, or are unsuccessful in their efforts to do so, they will be offered a transfer to a unilingual position which has a salary maximum at least within the range of one annual increment of the position previously occupied. If they decline a transfer, they will be entitled to remain in their position, even though the position has been designated as bilingual. *Where, under the above circumstances, a unilingual employee occupies a position, designated as bilingual, the Department concerned will be required to make alternative administrative arrangements to meet the language requirements of the position. The Treasury Board will provide the necessary funds and man-years to give effect to these arrangements.* [emphasis added; cited in *Kelso* v. *Canada*.]

pursuant to an Act of Parliament, as well as every court in Canada exercising criminal jurisdiction conferred upon it by the Parliament of Canada, should ensure that any person could give evidence in either English or French [s.11(1)].

3. In proceedings in criminal matters, s.11(3) of the Act allowed that a court might, if it appeared that proceedings could effectively be conducted and evidence could effectively be given and taken wholly in one language, conduct entire proceedings in accused's language of choice.
4. The above provisions, however, were confined to those provinces that provided a similar power in civil cases [s.11(4)].

The restrictive nature of s.11(3) of the *Official Languages Act* is succinctly highlighted by Kerr (1970) who noted that

> in the federal Act ... the power of a court under s.11(3) to hold criminal proceedings solely in English or solely in French at the request of an accused person, is not applicable to federal and Quebec courts where the use of both English and French is constitutionally guaranteed. In the federal Act the power of a court under s.11(3) is further restricted to those provinces which provide a similar power in civil cases. As a result ... an accused person will only be able to obtain a French trial in those provinces like New Brunswick which introduce language rights legislation. [p 47]

Thus, some sort of provincial ratification was required before the last-mentioned provision could be applied in a province.

Prima facie these articles ensured bilingualism in courts, and that may theoretically be the case. However, in practice, notwithstanding the legal phraseology, in October, 1980 the Trial Division of the Federal Court heard a case[131] where it was asked to give judgement in a litigation where an Anglophone counsel sought, but was denied, the facility of simultaneous translation. The judge decided that the party represented by an Anglophone counsel was entitled, as of right, to the assistance of an interpreter in respect of any interrogation conducted in French, but, unless s.11(2) of the *Official Languages Act* was applicable, such a party was *not* entitled to insist upon simultaneous translation. Further, since Montreal --where proceedings were conducted-- had not been proclaimed a federal bilingual district, the Court was not obligated to provide simultaneous translation. The Court asserted that it was unjust to equate the right of simultaneous translation with the right to have an assistance of an interpreter. The latter right, it may be noted however, is recognized even outside the *Official Languages Act, vide Canadian Bill of Rights* that assures that "no law of Canada shall be construed or applied so as to

> [2](g) *deprive a person of the right to the assistance of an interpreter in any proceedings in which he is involved or in which he is a party or a witness, before a court, commission, board or other tribunal, if he does not understand or speak the language in which such proceedings are conducted.* [S.C., 1960, c.44, s.2(g); R.S.C. 1970, App. III. Emphasis added].

---

[131] Cf. *Re Canadian Javelin Ltd. v. Restrictive Trade Practices Commission*

Thus, in the eyes of the law a person cannot demand the facility of simultaneous translation of one official language into another unless the trials are conducted in the National Capital Region or in one of the federal bilingual districts. In all other geographical units a party to a trial can have a recourse to interpretational facility which is generally available even for the non-official languages.

The state of the art of interpretation in Canada, according to the *Royal Commission on Bilingualism and Biculturalism*, however, is "weak, improvised, and likely to lead to miscarriage of justice." Such a scathing criticism appears too harsh at first reflection. However, one may be inclined to accept it if one realizes that interpretation is an "art" that entails "understanding" of *ideas behind the words* in one language which are being rendered into another. Alan Crouch, an Officer-in-Charge of the Interpretation Services in Australia, has written a provocative article, captioned: *Interpreters, Translators and Legal Services: Towards a Better Understanding*, where he warns that it is easy "to forget that communication is so much more than merely language." Crouch advises that interpreting and translating are "extremely subtle and exacting arts" which tend to include such things as learning how to listen, developing sensitivity, [and] interpreting body language." The body language, in turn, tends to vary according to culture, and thus makes interpretation even more difficult.

Hence, in the absence of "satisfactory " and "adequate" interpretation facilities, the legal phraseology that "every judicial or quasi-judicial body established by ... an Act of Parliament ... has the duty to ensure that any person ... may be heard in the official language of his choice ... [without being] placed at a disadvantage" is of academic value. As one law professor notes: "It is in the simultaneous translation provision that the federal legislation may have its most substantive effect," but at present it could be easily avoided by a mere excuse of "inconvenience" in its availability. Also significant is the fact that the provision of simultaneous translation facility is limited to federal courts where *Section 133* of the *B.N.A. Act* has already assured the choice of an official language (Kerr, 1970; see also *Miller and Kyling* v. *The Queen*).

In order to ensure and monitor compliance with the new bilingual measures, the *Official Languages Act* created an office of Commissioner of Official Languages. The Commissioner would act, more or less, like an ombudsman in respect of language practices. According to s.25 of the *Act*:

> It is the duty of the Commissioner to take all actions and measures ... with a view to ensuring recognition of the status of each of the official languages and compliance with the spirit and intent of this Act in ... the institutions of the Parliament and Government of Canada and ... to conduct and carry out investigations either on his own initiative or pursuant to any complaint made to

> him and to report and make recommendations with respect thereto ....

C. OFFICIAL LANGUAGES OF NEW BRUNSWICK ACT

Among the provinces, New Brunswick, with more than thirty six percent of the total population composed of Francophones, followed the federal example in deferring to the recommendations of the *Royal Commission on Bilingualism and Biculturalism* (Bujold, 1977:52). In 1969 the *Official Languages of New Brunswick Act* was passed declaring English and French as the "official languages of New Brunswick" for use in the legislatures, courts, as well as the Government of New Brunswick. Various provisions of the *Act* obligated that:

1. "The official languages may be used in any proceeding of the Legislative Assembly or committee thereof" [s.3].
2. "Records and reports of any proceeding of the Legislative Assembly or committee thereof be printed in the official languages" [s.4].
3. Where Bills introduced in the Legislative Assembly were to be printed in both official languages, Motions and other documents could be printed in either or both the official languages (s.5).
4. All official "notices, documents, instruments or writings ... published by the Province" were to be printed in the official languages (ss.8 & 9).
5. Public officials "of the Province, any agency thereof or any Crown corporation" were obliged to provide, or

arrange available services to the public in both the official languages (s.10).

6. In public, trade or technical schools, the language of instruction was to be the mother tongue --English or French-- of each group with the other official language taught as the second language for those groups (s.12).
7. Both English and French were to be the official languages in the Courts of New Brunswick, where "Courts" included judicial, quasi-judicial and administrative tribunals (s.1). According to s.13 "any person appearing or giving evidence" could be heard in the official language of his choice without being placed at any disadvantage, with the provision, however, that "when (a) requested by any party, and (b) the court agrees that the proceedings can effectively be thus conducted, the court may order that the proceedings be conducted totally or partially in one of the official languages." And finally:
8. Both versions in the official languages in all "instruments, bills, statutes, writings, records, reports, motions, notices, advertisements, documents, or other writings" were "equally authentic" (s.14).

The enactment of *Official Languages Act* of Canada and the *Official Languages Act of New Brunswick* angered those who believed in the sanctity of *status quo* of language agreements entered into at the time of Confederation. The

Acts were consequently challenged for their constitutional validity in the courts of law.

D. CONSTITUTIONALITY OF OFFICIAL LANGUAGES ACTS

The constitutional validity of the federal *Official Languages Act* was questioned even before it was enacted. Critics generally maintained that the status and extent of the use of languages was settled and fixed as a primordial condition of the Confederation agreement. Therefore any change in the *status quo* would tantamount to a breach of the fundamental basis of Confederation, and could only be legitimately brought about by the British Parliament.[132] Writing to Prime Minister Trudeau, Thorson, former President of the Exchequer Court of Canada, warned about the invalidity of the proposed official languages act. His chief points of contention were ably summarized by Prime Minister Trudeau, as he issued a rejoinder. Trudeau (1969:1) replied:

> As I understand[,] ... the two points that you make

---

[132] As the Honorable Joseph T. Thorson, former President of the Exchequer Court of Canada (from 1942 to 1964) stated:

> [Any legislation passed in Canada] that would attempt to make French an official language or endow it with a status equal to English in an area where it is not now an official language or does not now have such a status would be in conflict with the provisions of section 133 and be a breach of a fundamental condition of Confederation.
>
> If there is to be any extension of French as an official language or its equality of status with English beyond the ambit of the limits specified by section 133 this can be accomplished only by an amendment of the British North America Act which would have to be enacted by the Parliament of the United Kingdom [Thorson, 1969:113].

against the Bill can be stated as follows:

> 1. The Bill represents an attempt to amend the Constitution of Canada as regards the use of the English and French languages so that it falls within one of the stated exceptions to the legislative jurisdiction of Parliament under Head 1 of section 91 of the *British North America Act*; and
>
> 2. section 133 of the *British North America Act* limits the status and use of the French language in Canada so that any attempt, whether by Parliament or by the Legislatures, to extend the use of that language by legislation is repugnant to that provision and therefore *ultra vires*.

The Prime Minister then refuted both of these contentions. First, he denied that Bill C-120 (the Bill that proposed the enactment of the *Official Languages Act*) purported to be an amendment of the constitution with respect to "any legal right or obligation ... relating to either the English or the French language." Trudeau argued that Section 133 of the *B.N.A. Act* --the only provision that deals with languages-- was "in part mandatory and in part permissive":

> The part that is permissive allows any person to use either the English or French language in the Houses of the Parliament of Canada, the Houses of the legislature of Quebec and in the Federal and Quebec courts. The part that is mandatory requires the use of both languages in the Records and Journals of the Houses of the Parliament of Canada and the Quebec Legislature and the printing and publication of the Acts of Parliament and the Legislature of Quebec in both languages.

The enactment of Bill C-120, Trudeau argued, neither modified the permission conferred nor affected the obligations imposed by Section 133 of the *B.N.A. Act* so that

> everyone in Canada will continue to enjoy precisely the same rights and privileges in respect of both languages under section 133 as they previously

> enjoyed before its enactment. The Constitution of Canada as regards the use of the English or the French language will, therefore, remain the same.

With respect to the second argument of Thorson that Section 133 of the *B.N.A. Act* had demarcated the extent of the use of French in Canada, Trudeau's answer was that (a) both English as well as the French language stood "in a completely parallel position in section 133 of the *B.N.A. Act*" so that any implied limitation respecting the use of one language must necessarily apply to the use of the other, and (b) the wording of s.133 did not imply any limitation whatever. Hence, both the Parliament of Canada as well as the Provincial Legislatures were competent to legislate the use of language --English, French, or any other language-- so long as such laws did not conflict with the *B.N.A. Act, 1867*, as indeed such measures had been legislated in the past, both at the Federal as well as at the Provincial level. "For example," Trudeau illustrated, "most provincial legislatures have provided for some use of both French and English schools," and the federal government had "for some time been extending the use of both languages in the Public Service and in government documents."[133]

---

[133] Some other examples include:
- *Canada Elections Act*,
  S.C., 1960, c.39, s.25
- *Canadian Citizenship Act*,
  R.S.C., 1952, c.33, s.10(1)(e)
- *Cities and Towns Act*,
  R.S.Q., 1964, c.193, s.362
- *Civil Code (Quebec)*,
  Articles 1571a, 1571d, 1671a, 1682c
- *Companies Act*,
  S.C., 1964-65, c.52, s.50
- *Gas, Water and Electricity Companies Act*,

Bill C-120, we have seen, was passed by the Parliament of Canada and was enacted as the *Official Languages Act*. The *Act* was then formally challenged in the law courts.

New Brunswick Court of Appeal Decision

The New Brunswick Court of Appeal, on a reference by the Lt/Governor-in-Council,[134] examined the *Official Languages Act* of Canada, the New Brunswick *Evidence Act*, and the *Official Language of New Brunswick Act*. At issue, particularly, were the constitutional validity of ss.11(1), 11(3) and 11(4) of the *Official Languages Act* of Canada,[135]

---

[133](cont'd) R.S.Q., 1964, c.285, s.4
- *Labour Code*,
  R.S.Q., 1964, c.141, s.51
- *The Judicature Act*,
  R.S.O., 1970, c.228, s.127
- *The Quebec Companies Act*,
  R.S.Q., 1964, c.271, s31
- *Unclaimed Goods Sale Act*,
  R.S.Q., 1964, c.316, ss.7,9

[134] Such referrals are authorized by *The Judicature Act*, R.S.N.B. 1952, c. 120, s. 24A

[135] We may recall that the *Official Languages Act* of Canada provided:

> 11.(1) Every judicial or quasi-judicial body established by or pursuant to an Act of the Parliament of Canada has, ... in exercising ... any criminal jurisdiction ..., the duty to ensure that any person giving evidence before it may be heard in the official language of his choice, and that ... he will not be placed at a disadvantage by not being or being unable to be heard in the other official language.
>
> 11.(3) ... in any proceedings in a criminal matter ... any court in Canada may in its discretion, at the request of the accused ... [,] if it appears to the court that the proceedings can effectively be conducted and the evidence can effectively be given and taken wholly or mainly in one of the official languages as specified in the request, order that,

s.23(c) of the *Evidence Act* of New Brunswick,[136] and s.14 of *Official Languages of New Brunswick Act*,[137] that provided for the use of either of the two languages --English or French-- in criminal cases adjudicated in a Provincial Court.

---

[135](cont'd) ... the proceedings be conducted and the evidence be given and taken in that language.

> 11.(4) Subsections (1) and (3) do not apply to any court in which, under and by virtue of section 133 of *The British North America Act, 1867*, either of the official languages may be used by any person, and subsection (3) does not apply to the courts of any province until such time as a discretion in those courts or in the judges thereof is provided for by law as to the language in which, for general purposes in that province, proceedings may be conducted in civil causes or matters.

[136] According to s.23(c) of the *Evidence Act* of New Brunswick, R.S.N.B. 1952, c.74,

> in any proceeding in any court in the Province, at the request of any party, and if all the parties to the action or proceedings and their counsel have sufficient knowledge of any language, the judge may order that the proceedings be conducted and the evidence given and taken in that language.

[137] As per s.14 of the *Official Languages of New Brunswick Act*

> (1) ... in any proceeding before a court, any person appearing or giving evidence may be heard in the official language of his choice and such choice is not to place that person at any disadvantage.
>
> (2) Subject to subsection (1), where
> (a) requested by any party, and
> (b) the court agrees that the proceedings can effectively be thus conducted;
> the court may order that the proceedings be conducted totally or partially in one of the official languages.

Judgements were documented by Justices Hugh C.J.N.B., Limmerick J.A., and Bugold J.A. separately. All the three were unanimous in that the challenged provisions were *intra vires* of the Parliament of Canada and the Legislature of New Brunswick. Chief Justice Hughes and Justice Bugold found the legitimacy under section 91(27) of the *B.N.A. Act* stating that criminal matters were solely conferred on Parliament, and that language was part of criminal proceedings. Justice Limmerick ruled that in addition to ancillary criminal jurisdiction, federal government had the power under section 91 to legislate for the Peace, Order and good Government of Canada as well.[138] Justice Limmerick went on to assert:

---

[138] Section 91 of the *British North America Act* empowered the Parliament of Canada to "make Laws for the Peace, Order and good Government of Canada." This empowerment was acknowledged by the Privy Council in *Russell* v. *The Queen*, where it was stated that any legislation that did "not fall within any of the classes of subjects in sect. 92 then the Parliament of Canada had by its general power to 'make laws for the peace, order and good government of Canada,' full legislative authority to pass it" (cited in Bujold, 1977:57).

Application of such wide powers was further clarified in *Atty-Gen. for Ont.* v. *Canada Temperance Federation*, where the judgement stated:

> ...the British North America act nowhere gives power to the Dominion Parliament to legislate in matters which are properly to be regarded as exclusively within the competence of the provincial legislatures merely because of the existence of an emergency ... In their Lordship's opinion, the true test must be found in the real subject matter of the legislation: if it is such that it goes beyond local or provincial concern or interests and must, from its inherent nature, be the concern of the Dominion as a whole ... then it will fall within the competence of the Dominion Parliament as a matter affecting the peace, order and good government of Canada, though it may in another aspect touch on matters specially reserved to the provincial legislatures" ([1946] AC 193 at p. 205).

> There can be no dispute that at this time in Canada's history there is no issue more vital to the unity and therefore to the peace, order and good government of Canada than the solution to the language problem existing between two peoples by whose foresight and goodwill this nation was founded in 1867.[5 N.B.R. (2d), 1972:674]

Hence, section 11 of the *Official Languages Act* was *intra vires* of the Canadian law.

The Court also ruled that section 133 did *not* restrict the status of English and French languages, and as long as the provisions of s.133 were not violated, new language laws could be enacted.[139]

---

[139] Chief Justice Hughes stated:

> I find myself unable to accept the contention that "so far as the subject of the status of the French and English languages in Canada is concerned, their status in the scheme of Confederation is fixed by section 133 so completely that it cannot be disturbed or altered in any respect, directly or indirectly, either by the Parliament of Canada or by legislature of the Provinces of Canada."

Justice Limmerick made the point that English did not have any special status different from French under section 133:

> The provision of s.133 of the B.N.A. Act, 1867 would seem to confirm this view. If the drafters of that Constitution considered English as the constitutional language of Canada it is difficult to justify the provision protecting the use of English in the debates in Parliament and in the federal Courts. Such a provision would be unnecessary. The implication from the protection of the use of English in these forums differs considerably from that arising out of the protection of English in the legislature and Courts of Quebec.

Justice Bugold wrote:

> Section 91(1) prohibits amendments to the Constitution as regards the use of the English or the French language. It does not prohibit amendments as to the use of both languages. It stipulates that Parliament may not amend the Constitution respecting

Supreme Court of Canada Upholds New Brunswick Court of Appeal Judgement

The decision of the New Brunswick Court of Appeal was affirmed by the Supreme Court of Canada on April 2, 1974 on an appeal in the case of *Jones v. A.G. of Canada et al.* Writing for a unanimous court, Chief Justice Laskin of the Supreme Court affirmed that Section 11(3) of the *Official Languages Act* was *intra vires* of federal Parliament with respect to "procedure in criminal matters" *vide s. 91(27)* of the *B.N.A. Act*. Laskin refuted the objections of the Counsel for the appellant that Parliament of Canada was precluded from enacting the *Official Languages Act* in the light of section 133 and section 91(1)[140] of the *B.N.A. Act*. The Supreme Court came to the same conclusion that Prime Minister Trudeau had arrived at in response to Thorson. Justice Laskin averred that s.133 of the *B.N.A. Act, 1867*

> [did] not exhaust constitutional authority with respect to the use of English and French, or fix the

---

[139] (cont'd) the use of the English or French languages, not that Parliament may enact no law whatsoever relating to the use of the English or the French language.

[140] Section 91(1), added by the *B.N.A. (No. 2) Act, 1949*, 13 Geo. VI, c.81 (U.K.), empowered the Parliament of Canada to amend the Constitution *except*, inter alia, *"as regards to the use of the English or the French language"* (emphasis added).

Section 91(1) was repealed by the *Constitution Act, 1982* only to be replaced with equally stringent restrictions, that we shall discuss later.

> status of the two languages so that any legislation which extends the protection afforded to or the obligations imposed respecting both languages by s.133 must be preceded by constitutional amendment.

Further, while any mitigation of the provision of s.133 would require a constitutional amendment, the *Act* did not preclude "the conferring of additional rights or privileges or the imposing of additional obligations respecting the use of English and French ...." Apart from the fact that the language legislation did not contravene s.133 or s.91(1) of the *B.N.A. Act*, the Supreme Court concluded that the Parliament of Canada had an independent right to enact the *Official Languages Act* as a law "for the peace, order and good government of Canada."

E. BILINGUALISM IN PUBLIC SERVICE IN CANADA

With respect to the public service in Canada the *Royal Commission on Bilingualism and Biculturalism* had reported (a) deficiencies in "equality of opportunity" with respect to recruitment and career potentiality, (b) lack of bilingual service to public, and (c) insecurity of interests of the two cultures. The *Commission* regretted both lack of francophone strength as well as environment in the civil service of Canada.

Prime Minister Trudeau reiterated the *Commission's* observations when he spoke in the House of Commons on June 23, 1970 that "the atmosphere of the public service should represent the linguistic and cultural reality of Canadian society, and that Canadians whose mother tongue is French should be adequately represented in the public service -- *both in terms of numbers and in levels of responsibility"* (emphasis added). He announced the formation of French Language Units (FLU), as recommended by the B. & B. Commission. These units were designed to afford an opportunity to the French Canadians in the public service to use their mother tongue as their main language of work (Wilson:1974:273).

In the early 1970s the federal government was further able to dilate upon its policy of language use in the bureaucracy. The Honorable C.M. Drury, the then President of the Treasury Board of Canada, voiced plans for "institutional bilingualism" for the Canadian federal public service. The plan called for "the existence of a select collection of bilingual individuals buttressed by a support service divided into two groups of unilinguals." It also involved designating various positions in the hierarchy as bilingual. The Minister also emphasized the need for making deliberate efforts to attract French Canadians to the federal public service (Wilson and Mullins, 1978:516).

The institution of French Language Units together with the continued efforts towards more active recruitment of Francophones, designation of language requirements for public service positions, and the development of an extensive language training system helped create a more attractive and congenial milieu for the Francophones to work in (Kernaghan, 1978:500). The presence of French Canadians in the public service grew both in numbers as well as in levels of responsibility. Between 1966 and 1976 French-Canadian participation in the senior administrative category in Canadian public service increased from 14 percent to 21 percent (Wilson and Mullins, 1978:522). Another observer noted:

> The most tangible indicator of progress is the fact that Francophones are now represented in the public service in almost exact proportion to their numbers in the total population -- an increase from 12.25 per cent of the service in 1946 to 27.2 per cent in 1977. Perhaps of even greater significance in view of the important policy role of senior public servants is the fact that 21 per cent of the senior executive category is now composed of francophones [Kernaghan, 1978:501].

Kernaghan (1978) dispels some reported notions of continued lack of substantial increase in Francophone participation in the civil service as based on old figures and dated information. The assertions of Postgate and McRoberts (1976:141), for example, according to Kernaghan (1978:501-502), were "based on the 1966-1971 period rather than the subsequent years during which the expansion of francophone representation of the senior levels was more rapid." He concedes, however, the inadequacy of a measure that might merely tap the percentage of Francophone representation at the senior levels of the public service, for their potential influence is likely to vary from one department to another. For instance, one could "clearly exercise more influence in the policy process" if one holds a senior position "in such administrative units as the Privy Council Office, Treasury Board and the Department of Finance rather than in less central and less significant departments and agencies."

The cost of bilingual development programs in the country, directed by the Secretary of State, has been substantial.[141] "By 1972, in addition to language training centers in other cities such as Toronto, Quebec City, and Montreal, the federal government was operating in Ottowa and Hull some of the largest language schools to be found anywhere in the world" (Wilson, 1974:277).

However, the programme has not been without its serious defects. By 1972, although over 18,000 public servants had been in language training over the years, only 2,500 of these graduates could by truly certified as bilingual. Well over 8,000 dropped out of training (Wilson, 1974:277). The *Fifth Annual Report of the Commissioner of the Official Languages 1975* criticised government's expensive language training program, arguing that "too many of the wrong people, chosen for the wrong reasons, have been getting the wrong training; their progress has been assessed by the wrong standards; and they have been sent back to jobs too often wrongly designated bilingual in the first place" (cited in Wilson and Mullins, p.515). However, apparently there were at least two reasons for the lack of motivation on the part of the civil servants to acquire a "second language." In the first place many Anglophone civil servants felt there would be no opportunity for the utilization of their hard-earned bilingual skills and hence their tiring exercise was futile.[142] Secondly, as a senior civil servant indicated, these students of second language were often recalled from their language training program whenever the department felt the workload had become too heavy to dispense with the language trainees. Thus, too often, these chosen civil servants were expected to learn the language *in addition to* their regular duties.[143]

---

[141] As Wilson (1974:275-276) reports: The cost of federal language training program was $5,084,000 in 1969-1970, and "rose to approximately $7 million in 1970-71, over $10 million for 1971-72, and approximately $11 million for 1973-74."

The implementation of the policy of bilingual administration in Canada has thus been criticized as being costly and inefficient, on the one hand, and in violation of the merit principle, on the other. The government's reaction to the first was to minimize recall of language trainees by providing "executive back-up funds" and to recruit temporary help to tide over lost manpower (Wilson, 1974:277-78). To the issue of a possible interference in the merit principle the governmental response was straightforward: Bilingual competence itself was an element of merit, and therefore, with the increase in the number of bilingual positions, the government "will increase the opportunities for qualified francophones and thus at one and the same time preserve the merit principle and achieve the goal of more representative public service" (Kernaghan, 1978:500).

---

[142] Commissioner of Official Languages 2nd Annual Report, p.37).

[143] As one senior civil servant regretted:

> Increased bilingualism (i.e. the ability to use both English and French effectively) in the federal service is a national policy .... Yet it creates a dilemma for the manager since he and his subordinates are required to take time from their regular duties in order to learn another language. This time must be dedicated to language training without any compensating reduction in work-load and without the addition of compensating manpower. .... In the absence of clear and consistent guidance as to where day-to-day priorities lie, managers juggle their manpower around to try to fit in language training. "Being pulled off French" to help meet a pressing deadline is a common phenomenon that results from this ambiguity and conflict of priorities." [cited in Wilson, 1974:277]

Defending government policy and particularly the role of the Public Service Commission of Canada, John J. Carson, the former Chairman of the Commission asserted that he made "no apologies to anyone ... for the efforts that the Commission made between 1966 and 1976 to both bilingualize and biculturalize the federal public service." During that period, at a cost of $124 million the Commission exposed over 50,000 English- and French-speaking civil servants to their second language. Only 15,000 of them graduated and were "able to function at least passively in both languages," whereas "close to 50 per cent of that group became actively bilingual." With respect to "biculturalizing the public service," Carson reported that by 1976 the Francophones represented "roughly 25 per cent of the total public service." At the executive level their numbers increased from 14 per cent in 1966 to 21 per cent by mid-1976 without "any distortion of the merit principle."

However, the revelation by the Public Service Commission that (a) only 14.1% of the total number of Francophones in the public service --from Quebec or other parts of Canada-- "say that French is the language they use most frequently in their work," and (b) that "francophones have been leaving the public service at a faster rate than anglophones" (Kernaghan, 1978:502) inflicted a more damaging blow to the government's policy. According to Public Service Commission's *Annual Report for 1977*, "the departure rate of the Francophones from the senior executive category," for the previous year, "was 9.4 per cent (versus 6.7 per cent for Anglophones), for the scientific and professional category 14.2 per cent (versus 8.2 per cent)." The Commission admitted, however, that "the main reason for this exodus of high-qualified Francophones seems to be an increasing demand, and higher salaries, in the private section for bilingual managers and specialist" (Wilson and Mullins, 1978:537).

F. QUEBEC PLANS HER OWN STRATEGY

While the federal government was taking its time to make amends by way of consociational efforts, and to defuse the erupting Quebecois sentiment principally by her policy of official bilingualism, the French element in Quebec society contemplated taking necessary steps to safeguard threats to their separate identity. From 1971 on, the birth rate of the *Canadiens*, it was apparent, "was barely able to compensate for the deaths," whereas the English "continued to proliferate at a somewhat greater rate." It is also noted that the immigrants "had a higher birth rate and their children with few exceptions were being Anglicized" (Morf, 1976:83; Morton, 1981:26). According to some statistics, "English benefitted from the language changes of allophones five times as much as French." The net effect was awesome: the growth of the Francophone population, even in Quebec, lagged behind that of the Anglophones (Legendre, 1982:13). Hence realising perhaps, that the chief danger to Francophone survival was their diminishing numbers which, in turn, resulted from continued decline in natural birth rate, Francophone emigration, and --to their greater consternation-- assimilation of non-French, non-English immigrants into Anglophone society chiefly through English schooling,[144] the Quebec Government focused their attention on language policy in schools.

One of the first Quebecois efforts at arresting further immigrant assimilation into Anglophone community through English as a medium of instruction came in the Fall of 1968.

---

[144] According to Morf (1976:82), "ninety percent of all immigrants (especially the Germans, Italians, Greeks, and Jews) were sending their children to English schools" and that "the English schools effectively shielded the students from any serious contact with French language and culture [for] (French in English schools until lately was taught like a dead language) ...."

According to another study, "in the Catholic schools of Montreal, only 17.20% of the children from German families, 16.4% from Portuguese families and 25.2% from Italian families attended French-speaking schools" (Legendre, 1982:12).

In that year the *Commission Scolaire* of St. Leonard --a northern suburb of the City of Montreal-- within the powers granted in the Education Act,[145] proscribed English education and demanded that in its district, instruction in schools will be conducted *in French language only* (Paradis, 1970:677; Short, 1981:4). Parents of some two hundred English-speaking students sought a court injunction against the *Commission Scolaire.*[146] Their appeal, however, was denied by the judiciary because religious and not linguistic considerations had been at the base of educational law in Quebec, and no existing law prevented elimination of English language education (Paradis, 1970:678).

Bill 85

Efforts on the part of the Provincial Government to restore the right to English education by proposing Bill 85 towards the end of 1968 were drowned amidst loud protest from both the sides. The English considered the guarantees inadequate. The French lobby questioned the advisability of transforming the privilege of English education, granted through the courtesy of the Francophone majority to the English minority, into a specific law. There were objections to such a gesture especially in the absence of reciprocal guarantees for the French minorities of Sudbury,

---

[145] R.S.Q., 1964, c. 235

[146] *Perusse et Papa* v. *Commissaire d'Ecole de St. Léonard de Port-Maurice*, S.C. Montreal, September 25, 1968.

St. Boniface, Gravelburg, Maillardville and so on (Paradis, 1970:678).

The political climate in Quebec, henceforth, was steeped in the language issue. Attention was particularly paid to the medium of instruction in schools as a lever to control linguistic assimilation in Quebec. The Government of Quebec instituted a Royal Commission of their own in December, 1968 on the French Language and Language Rights in Quebec (Gendron Commission). At the same time, they continued with their efforts to legislate a language law, which resulted in *An Act to promote the French Language in Quebec* (Bill 63), passed in the Fall of 1969.[147]

Bill 63

Bill 63 was promulgated in the face of angry filibustering in the Quebec Assembly and subsequent abandonment of the Liberal Party by René Lévesque and Yves Michaud. The *Act* (a) affirmed the use of French in schools, (b) promoted the use of French by immigrants, and (c) gave extensive powers to the already existing French Language Bureau. However, while the *Act* empowered school commissioners to promote French by imparting instructions in the French language, *vide* s.2 it also permitted that

> [instruction] shall be given in the English language to any child for whom his parents or the persons acting in his stead so request at his enrolment; the curricula and examinations must ensure a working knowledge of the French language to such children

---

[147] Quebec Statutes (1969) c. 9

> and the Minister shall take the measures necessary for such purpose.

The *Act* thus entrenched French language as the official language of Quebec but at the same time extended a legal guarantee to the minorities to have their children educated in English, albeit ensuring that such children also acquired "a working knowledge of French."

Angry dissentients of Bill 63 stepped up a campaign against the Bertrand Government leading to its defeat in the Provincial elections of April, 1970. The Liberal Party, headed by Robert Bourassa, succeeded Bertrand. The Bourassa Government seemed inclined to the spirit of earlier Liberal, Lesage-led "Quiet Revolution." In the meantime, in December, 1972 the Gendron Commission had finalized its recommendations on language issues in Quebec.

Gendron Commission Report

In suggesting a course of action, the Gendron Commission also identified some major factors that influenced their recommendations. These prime considerations included the following historical facts:

1. Economic inferiority of the Francophones.
2. The Anglophone economic elite in Quebec had allegedly taken a negative view of the Francophone demand for "equality of opportunity" in the economic and industrial development of Quebec.
3. The Francophones were "obliged" to learn English language even in establishments where French was

supposed to be the language of internal communications.

4. Allophone immigrants opted for English language over the French for themselves and their children.
5. The minimal utility of French language for the Anglophones and hence the minimal motivation manifested by the English Canadians to learn French language.
6. The comparative failure of Quebec educational institutions in equipping the French Canadians to fill positions of higher responsibility in the commercial and industrial decision-making elite in Quebec.

Based on above deliberations the first main recommendation of the Gendron Commission was to pronounce French as the official language of Quebec without necessarily coming into conflict with Section 133 that established English and French as the two federal public languages in Quebec. The importance of such a declaration, it seems, was intended to be chiefly symbolic in nature. In practical terms, "while French would become ... the sole official language of Quebec, English would also be recognized as a language of limited public protection within the Province" (Legendre, 1982; McWhinney, 1981:419).

Gendron Commission's second recommendation pertained to commerce, industry, and work milieu in general. Here, the Government was advised

1. "to ensure, in a pragmatic, empirical way, that French is established as the language of Internal Communication in commerce and industry and the work milieu in general,

in the Province of Quebec, and ultimately as the common language of all Quebecers";

2. to "endeavor, by voluntary, pursuasive or facultative, community measures, to ensure far greater vertical mobility on the part of French Canadians in commerce and industry operating in the Province of Quebec";
3. to "ensure far greater access by French Canadians to 'command' or decision-making posts in commerce and industry operating in the Province of Quebec, having a general regard ... to the relative proportions of French Canadians" (McWhinney, 1981:420).

At this stage it may be noted that the recommendations of the *Royal Commission on Bilingualism and Biculturalism* on the subject seemed to be quite parallel to the Gendron Commission's *La situation de la langue française au Québec.*[148]

---

[148] The RCBB had recommended
that the government of Quebec establish a task force to consist of representatives of government, industry, the universities, and the major labor unions with the following general terms of reference: a) to launch discussions with the major companies in the province concerning the current state of bilingualism in their organizations and the means of developing institutional bilingualism more fully; b) to design an overall plan for establishing French as the principal language of work in Quebec and to set a timetable for this process; c) to initiate discussions with the federal government and with the governments of New Brunswick and Ontario, to discover areas of potential co-operation in implementing the plan; and d) to make recommendations to the provincial government for the achievement of the goal and for the establishment of permanent machinery of co-ordination [cited in Scott, 1971:256].

On the basis of Gendron Commission's report, Quebec National Assembly replaced Bill 63 with Bill 22 --a new official languages act-- which was given Royal Assent on July 31, 1974.

Bill 22

In accordance with the *Official Languages Act* of Quebec (Bill 22) French was declared as the "official language" of public administration, public utilities and professional bodies,[149] business, labor, as well as the language of instruction in schools in Quebec. Section 29 of this *Act* required francization of the business organization, as follows:

> The francization programs which must be adopted and applied by business firms wishing to obtain the certificates mentioned above must ... relate especially to:
>
> (a) the knowledge that the management and the personnel must have of the official language;
>
> (b) the francophone presence in management;
>
> (c) the language in which the manuals, catalogues, written instructions and other documents distributed to the personnel must be drawn up;
>
> (d) the provisions that the business firms must make for communication in French by the members of their personnel, in their work, among themselves and with their superior officers;

---

[149] According to Riley (1976:102), the composition of the Professional Corporation group and the specific provision regarding this group are unobjectionable, as the provincial jurisdiction over professional bodies is established by virtue of their power over provincial civil rights, as confirmed in *R. v. Council of College of Physicians and Surgeons, ex. parte Ahmad*, and *Re Hayward et al*.

(e) the terminology employed.

The term "Francophone" was not defined in the Act. Its ambiguity lay in the possibility of giving it a *linguistic* definition or an *ethnic* one -- a francophone could be a French-speaking person, irrespective of ethnic origin, or he could be a French ethnic. The latter definition, though "discriminatory," seems more probable, for the purely linguistic definition of the term renders s.29(b) redundant (Rosenstein, 1978:152-153). However, the issue was not brought before a law court and hence never definitively resolved.

The English language received a special, *permissive* status in Bill 22, in that, the official texts could be accompanied by an English version. Though French was to be the sole language of internal communication yet remarks could be addressed to the chair in either of the two languages (cf. s.15). It is noticeable, however, that all of these concessions were permissive and not obligatory; these provisions could be dispensed with if the government so decided. Anglophones were not granted the facility to communicate with the Government in English as a constitutional right (Devine, 1977:120).

The official language --French-- unequivocally received a *preferred* language status. For example, only those with knowledge of French could be promoted to administrative positions in Provincial public administration; all judgements of the courts delivered in English were to be translated into French language as well; professionals seeking a permit from professional corporations were obligated to have a "working knowledge of the French language," and finally, and perhaps most important of all, any discrepancy that could not be removed by "ordinary rules of interpretation" would be settled by attending to the French text of the statute over the English version (cf. s.2).

In Quebec public schools all children were expected to receive education in the French medium, the sole exception being those children who could demonstrate sufficient mastery over the English language to be educated in the English medium (cf. ss.41-43). Children with English as their mother tongue were also allowed English schooling provided the number of such pupils in an educational district was sufficient to warrant the opening of separate schools (cf. s.40). It was expected thereby to force non-English immigrants and French children to go to French schools. However, all those permitted to attend English schools, were nonetheless expected to learn French as a second language, the same way as the children in the French medium schools were required to learn English as a second language.

Thus, *Bill 22 brought the first statutory restriction on parental choice of their children's medium of education.* The Protestant School Board of Montreal was unsuccessful in challenging the constitutional validity of the educational provision of the *Act* (Lange, 1980:37).

Bill 22 was widely criticized by the Anglophones who, notwithstanding their numerical minority in Quebec, had hitherto "forced" the Francophones in Quebec to use English as a public language. The federal government resisted pressure from Anglophone extremists who insisted that the Government of Canada should constitutionally disallow Bill 22 or else refer it to the Supreme Court of Canada for an Advisory Opinion on its constitutional validity.

The Bourassa Government, for its part, avoided direct confrontation with Quebec's anglophone minority by adopting "a facultative approach, [and] accepting at face value the professions of language competence advanced by immigrant parents on behalf of their children and thereby permitting their effective ... transfer into the English-language system (McWhinney, 1981:424). Bourassa's moderation, however, had a hand in his losing of the next election in Quebec. His successor René Lévesque submitted on April 1, 1977 to the *Assemblée Nationale* of Quebec a *White Paper*,[150] proposing a revised language policy.

White Paper

Lévesque's *White Paper* proposed further intensification of Francization in Quebec in that

> [all] laws were to be adopted and promulgated *only* in French; judgements rendered by Quebec courts were

---

[150] *Livre blanc. La politique québécoise de la langue française*

> to be in French with the French text as the *sole* authentic version; documentation published by the public administration was to be in French. A commission of toponymy was to be created to render the names of geographical places in French.
>
> In industry, the "francization" of enterprises was to be obligatory and all enterprises of more than 50 employees must obtain a certificate of "francization" by 1983, though, according to the particular case, the process of "francization" could extend over a period as long as 20 years. Every employee in industry could require his employer and also his trade union (syndicate) to communicate with him in French; and labor arbitration decisions in industry must also be in French.
>
> .... The test of a sufficient knowledge of English as a legal criterion for admission to an English-language public school, even on part of a child whose parents were not English-speaking, was replaced by that of the maternal language of the parents. With certain limited and temporary exceptions, only those children at least one of whose parents had gone to an English-language public school would be admitted to the English-language public schools in future [emphasis added, cited in McWhinney, 1981:425-426].

Bill 101

Lévesque's *White Paper*, with some modifications was enacted as *Charter of the French Language* ("Bill 101"), assented to on August 26, 1977. The legislators avoided the ethnically discriminatory tone and intentions of the *White Paper* and confirmed the continued francization of business and industry in Quebec by invoking the criterion of proficiency in French language. Section 141 of the *Charter* provided that:

> The francization programme is intended to generalize the use of French at all levels of business firm. This implies:
>
> (a) the knowledge of the official language on the part of management, the members of the professional corporations and the other members of the staff;

> (b) an increase at all levels of the business firm, including the board of directors, in the number of persons having a good knowledge of the French language so as to generalize its use;...
>
> (h) appropriate policies for hiring, promotion and transfer.

Thus, theoretically at least, regardless of ethnic origin or mother tongue, anyone could learn French and benefit from the preference. The *Charter* allowed the business firms a period of at least three years to obtain a francization certificate from the *Office de la langue française* (Rosenstein, 1978:157). Some other provisions of the *Charter* required commercial advertising --signs/posters-- to be solely in French language, albeit catalogues, brochures, folders, etc., could be in another language *in addition to* French (s.58). However, signs/posters in commercial establishments specializing in "foreign national specialties" could be in both French and relevant foreign national language (s.62). Section 51 of Bill 101 required all labelling in commercial production to be in French. Beginning August 26, 1977 *vide* s.69, *only* the French version of a firm name could be used in Quebec. In cases where a corporation had no firm name it was advised to obtain one by December 31, 1980 and if it had two names it was expected to use only one -- the French one.

In the field of education, Bill 101 imposed more restrictions than ever before on access to schooling in the English language. As a general rule it was expected that "instruction in the kindergarten classes and in the elementary and secondary schools shall be in French ...." (s.72). Exceptions to this principle included a child whose father or mother had "received his or her elementary instruction in English, *in Quebec*[151]...."[s.72(a)] or outside Quebec, *provided*, the parents were domiciled in Quebec on the date Bill 101 came into effect (i.e., August 26, 1977). The *Charter* also exempted those children who were already enrolled in English schools; they as well as their siblings were allowed English schooling. The only other exempted category was that of temporary residents of Quebec. Thus, a tax-supported public system offering instruction in English language was allowed to continue in Quebec. However, access to it was restricted, and in some cases resulted in quite an apparent hardship. One case, for example, involved a nine-year old child of a Greek ancestry (whose parents had been in Canada for twenty one years) who had successfully passed his first year in an English school, but was compelled under Bill 101 to enter a French-language school at the kindergarten level (Lange, 1980:54-55). The Quebec Government, however, was unmindful of such hardships, for it had already stated the purpose of the access restriction in the *White Paper*, as:

> to open the English schools to ... [only] those who now live in Quebec and whose parents, because of their education, form part of the English-speaking community, as well as to their descendants; and to direct all other children to the French school, whether they already form part of the French-speaking community or whether they settle

---

[151] Emphasis supplied.

> here in future ....
> As for those who come to settle in Quebec after the adoption of the Charter, wherever they come from and whatever their native tongue they will have to send their children to French schools. [cited in Short, 1981:19]

"In essence," as Short (1981) concludes,

> the intention is to classify residents of Quebec whose mother tongue is English into two groups based on parentage: one group consisting of English-speaking persons whose ancestors were Quebecers, which is afforded access to English schools, and another group consisting of English-speaking persons of non-Quebec ancestry, which is denied access to the English schools.

However, such a policy was likely to encounter some unpalatable situations:

> Consider, for instance, a family that has moved from Ontario to Quebec after the enactment of the Charter. The parents were educated in English in Ontario, and the children have always attended English schools in that province. English is the only language spoken by members of this family. [However,] under Quebec's Charter the family would not be classified as part of Quebec's English-speaking minority ... [and] since the parents were not educated in English *in Quebec*, their children would not be permitted to enroll in English schools. [emphasis added, Short, 1981:20-21]

The francization process of Bill 22 and Bill 101 nonetheless had the perceptible effect of "a social and economic revolution in Quebec ... [transferring] economic decision-making power from the English-speaking to the French-speaking community" (McWhinney, 1981:427). Thus, language proved to be instrumental to the attainment of some of the economic ambitions of the Quebecois.

However, such far-reaching regulatory power of Bill 101 that no other Province of Canada came even close to it did not escape scathing criticism (cf. Forsey, 1979:482-483).

English reaction to Bill 101 took the form of open defiance when Quebec Association of Protestant School Boards asked their members to "admit the child of any parent who requests such admission to an English language school, whether or not Bill 101 permits the child's education in English" (Lange, 1980:53). Consequently, according to Quebec Government estimates, 2100 students were enrolled illegally in English language schools in Montreal Island. Premier Lévesque called it an "act of civil disobedience," which "cannot be tolerated," and warned that "eventually measures will have to be taken to counter it" (Lange, 1980:53).

The comments of Rosenstein on Bill 101, however, present a different viewpoint:

> Rather than as affirmative action legislation, "Bill 101" can better be viewed as Quebec's unique version of equal opportunity legislation. It attempts to promote a greater degree of equality of opportunity by redefining the linguistic ground rules in the competition for jobs and influence so as to shift at least part of the burden of bilingualism to the non-francophone. It steers clear of the crude and simplistic notion of quotas, a notion repugnant to many, avoids the controversy of reverse discrimination and aims instead at enhancing the competitive position of the majority by altering the linguistic dimension of the marketplace without, however, denying to the minority access to this enhanced position. It is regrettable, however, that the legislator, in seeking to attain this legitimate objective, found it necessary to adopt provisions which are heavy-handed (e.g. section 58 requiring signs and commercial advertising to be solely in French), unduly restrictive (e.g. section 73 limiting the eligibility of anglophones, among others, for instruction in English) and probably unconstitutional (e.g. sections 7 to 13 diminishing the use of English in the legal system). [Rosenstein, 1978:156]

In *Blaikie et al. v. A.G. Quebec*, Supreme Court of Quebec, indeed, declared sections 7 to 13 of the *Charter* unconstitutional (Rosenstein, 1978:156).

G. CONSTITUTION ACT 1982

The Federal Government's efforts to repatriate the *British North America Act* to Canada came to fruition in 1982 in the form of *Constitution Act, 1982*, set out in "Schedule B"[152] to the *Canada Act, 1982* [(U.K.) 1982, c.11], which came into effect on April 17, 1982.

The *Canadian Charter of Rights and Freedoms* constituting Part I of the *Constitution Act, 1982* reaffirmed English and French as the two official languages of Canada as well as of New Brunswick with "equality of status and equal rights and privileges as to their use in all institutions of the Parliament and Government of Canada" as well as those of the legislature and government of New Brunswick [s.16(1) and (2)]. Thus, the officially equal status of French and English in Canada and New Brunswick, that had previously been enforced by a statute of Canada and a New Brunswick Act, were now entrenched in the Constitution of Canada. Further, s.16(3) made it explicit that the *Charter* did not limit "the authority of Parliament or a legislature to advance the quality of status or use of English and French."

---

[152] French version "having the same authority in Canada as the English" being set out in 'Schedule A'.

The scope of the use of the two official languages was detailed in sections 17 to 20 of the *Charter*. The two languages were to enjoy equal status in all legislative, governmental, and judicial institutions of Canada and New Brunswick. Whereas either of them could be used in legislative and judicial proceedings, all statutes, records and journals were to be published in *both* languages, with both versions enjoying equal authenticity. With respect to the public's right to communicate with their government in either English or French, the *Constitution Act*, was, however, qualified. The facility of bilingual communication with government was restricted to "any head or central office of an institution of the Parliament or Government of Canada ... and the same right with respect to any other office of any such institution where

> (a) there is a significant demand for communications with and services from that office in such language; or
> (b) due to the nature of the office, it is reasonable that communications with and services from that office be available in both English and French.

Section 21 of the *Constitution Act* made it clear that the above noted language provisions were not exhaustive as

> nothing in ss. 16 to 20 abrogates or derogates from any right, privilege or obligation with respect to the English and French languages, or either of them, that exists or is continued by virtue of any other provision of the Constitution of Canada.

Hence, other provisions --notably s.133 of the *B.N.A. Act, 1867* and the *Manitoba Act, 1870*-- that had inhered in the *B.N.A. Acts* would continue to determine the legal status of

English and French in other provinces of Canada. Nonetheless, the omission of Quebec and Manitoba from these sections is noticeable.

Quebec again receives a special treatment under "minority language educational rights" guaranteed in the *Constitution Act.* Section 23 of the *Act* entitles English and French minority citizens of Canada the right to receive education in their own language provided "the number of children of citizens ... is sufficient to warrant ... [such instruction] provided out of public funds." However, its enforcement in Quebec is held in abeyance till such time that the Queen or the Governor-General issues a special proclamation to that effect *"only where authorized by the legislative assembly or government of Quebec"* (s.59). No such proclamation has been issued so far.

H. SUMMARY AND DISCUSSION

In this chapter we reviewed the ethnolinguistically troubled contemporary Canada since the Quiet Revolution. In the wake of heightened political awakening of French Canadians, particularly in Quebec, the Government of Canada stepped up their consociational efforts to "appease" the agitated Québécois. The Federal Government instituted the Royal Commission on Bilingualism and Biculturalism to look into the interethnic tension between the French and the English from a standpoint of "equal partnership between two founding races." The B. and B. Commission's clarion finding was that Canada lacked a fully developed linguistic regime, grounded in legal rights, that might express the "bicultural" character of the country. Therefore, the Commission made some far-reaching recommendations that included:

1. *Formal* recognition of English and French as the *official* languages of Canada with *equal* status in all the Federal institutions -- legislative, judicial, and governmental.
2. Effectively balanced participation of English- and French-Canadians in senior administrative positions in the civil service of Canada.
3. Establishing institutional bilingualism whereby the public may exercise choice of an official language in dealing with the government.
4. Printing of public notices in both the languages.
5. Acknowledging parental right to choose their children's language of instruction in schools.
6. Urging the Provinces to demarcate precincts in their jurisdiction, 10 percent of whose population may be that of an official minority --English or French-- as "bilingual districts." In these districts, public services would be available in both the official languages.
7. The Provinces of New Brunswick and Ontario were exhorted to declare themselves as officially bilingual.

The Trudeau Government, already sympathetic to the "bilingual cause," was strengthened in this respect by the publication of the B. and B. Report. Following the enactment of the *Official Languages Act* of Canada in 1969, French and English were declared as the two official languages of Canada. The *Act* envisaged, *inter alia*, the furtherance of bilingual public service in the National Capital Region as well as the Federal Bilingual Districts. The latter were to be chartered by the Government of Canada in consultation with the Provinces as geographical areas where at least ten percent of the population belonged to one of the two official minorities -- English or French. The *Official Languages Act* also envisaged that the travelling public would be provided with bilingual service wherever there was demand for it. Finally, in the sphere of governmental interaction with public, all public notices issued by the federal government were to be in both French and English languages.

The Trudeau administration also enhanced the spirit of bilingual public service by announcing French Language Units --in line with the recommendations of the RCBB-- to enable French-speaking public servants to work in their own tongue. In addition, the administration furthered the principle of institutional bilingualism by (a) designating certain bureaucratic positions as bilingual, (b) creating a select collection of bilingual individuals buttressed by a support service divided into two groups of unilinguals, (c) re-emphasizing the need to renew the efforts to recruit Francophones, and finally, (d) arranging an extensive language training program. Consequently, from 1966 to 1976 the Francophone presence in public service increased both in numbers as well as in responsibility.

Apart from bilingualism in the public service, the *Official Languages Act* reiterated the bilingual provisions of s.133 of the *B.N.A. Act* regarding the use of both the official languages in the Parliament of Canada as well as in the legislature of Quebec. Both versions of a law, it was reaffirmed in the *Act*, were equally authentic. In the legislative sphere, *Official Languages Act* went beyond s.133 in providing for bilingual publication of all subordinate legislation as well.

Likewise, in the administration of justice, *Official Languages Act* "improved" upon s.133 in that, in all criminal proceedings falling under the jurisdiction of the federal government, evidence could be furnished in either English or French. The *Act* also provided for simultaneous translation in courts located in the Federal Bilingual Districts and the National Capital Region.

Following the federal example, New Brunswick also declared that it was officially bilingual with provisions that paralleled those of the federal *Official Languages Act*.

The *Official Languages of New Brunswick Act* as well as the federal *Official Languages Act* were both challenged in the New Brunswick Court of Appeal and subsequently, in the Supreme Court of Canada. Both the Acts were upheld by the highest court of Canada as *intra vires* of the constitutional powers of the Parliament of Canada and the legislature of New Brunswick.

The Government of Quebec, however, were not placated by these measures. They realised that a principal threat to Francophone survival was their own diminishing proportion in the total population which was further getting mitigated by increased assimilation of Allophone immigrants into the Anglophone culture. They therefore promulgated a number of laws to arrest further weakening of the French language and culture. The main thrust, and a controversial one, of the various legislations --Bills 85, 63, 22, and 101-- was the prescription of French as the medium of instruction in Quebec schools for all children --French as well as non-French-- with but a few exceptions. The intentions were clearly to shift the tide of non-English non-French assimilation from English to French.

Another bold step taken by the Quebec legislature was the declaration of French as the sole official language of Quebec, albeit with English retaining a special status. While all legislation was still translated into English as well, the French version, nonetheless, was decreed as the superior one, in that it superseded the English version in case of discrepancies that could not be resolved by "ordinary rules of interpretation." French was also to be the prime language of public administration, business, labor, education, as well as the courts. It was deemed obligatory to translate all the court judgements that were delivered in English, into French.

The Quebec Government were determined to arrest further assimilation of immigrants to the English sector through English schooling. Therefore, they insisted that Quebec be exempted from an obligation levied on all Provinces of Canada to impart primary and secondary education to the official minorities in their respective languages, (provided, of course, there were "sufficient" number of such minority children). Such an obligation was contained in the *Canadian Charter of Rights and Freedoms* which formed part of the repatriated Constitutional Act of Canada, the *Constitution Act 1982*.

The *Canadian Charter of Rights and Freedoms* elevated the bilingual status of Canada from one merely based upon one of the statutes of the Canadian Parliament to the one based on the Canadian constitution itself. The sections on the "official languages of Canada" in the *Charter* reiterate the official status of English and French, already recognized under the *Official Languages Act* and the *Official Languages of New Brunswick Act*.

Apropos, the past two decades have been politically hectic on account of ethnolinguistic tension between the French- and English-speaking Canadians, particularly in Quebec. The Québécois behaved as if they were experiencing "relative deprivation." They blamed the English for the political and socio-economic backwardness of Francophones in Canada which the Anglophone majority in Canada had allegedly eventuated through the vehicle of language -- an accusation which was also endorsed by the federally appointed *Royal Commission on Bilingualism and Biculturalism* as well as Quebec's Gendron Commission. The Federal Government as also the Province of New Brunswick, consequently, embarked upon constitutional efforts focused particularly on the language issue. Both the Province of New Brunswick and the Federal Government enacted official languages acts, declaring French as officially equal with English. However, the Federal and New Brunswick efforts to elevate French language status even in the "teeth" of Anglophone opposition that took both the governments to the courts by challenging the constitutional validity of such a legislation did not assuage the Québécois resentment.

The French Canadians, particularly in Quebec were worried about their survival as a distinct group -- a distinction that was now chiefly (perhaps exclusively) based upon the use and survival of French language. It may be recalled here, that some other ethnic markers *viz.*, religious affiliation and value system, had lost the salience they once had for the French Canadians. The main threat to French language, now as in earlier history, was the unfavorable ratio of English- and French-speaking population in Canada, which now appeared as a possibility in Quebec, as well. The French-speaking Quebecers saw their existence in danger as their numbers continued to shrink on account of their decreased birth rate, but also because of

Allophone immigrants' assimilation in English tongue rather than in French, even in the French-majority Quebec. The very demographic process that had previously been a tower of strength to the French survival in Canada was now dwindling and hence presented an ominous sign to the Francophones who had maintained their separate existence in Canada for over two centuries.

The language issue, therefore, sprang up as *the* major source of trouble between the French and the English. Linguistic differences, it bears repetition, were held responsible for the economic disparity between the Francophones and Anglophones in Canada. Threat to linguistic extinction was a threat to the continued existence of French as a "nation." Quebec therefore undertook language legislation that aimed at excluding English-speaking elements from their ranks in both government and industry unless the Anglophones were "francized." The language laws focused particularly on restricting access to English as a medium of instruction, and thus were intended to divert assimilation of Allophones from English to French tongue.

Both at the Federal as well as Provincial levels the language developments have taken place in such a way that the Anglophones have wished to preserve the *status quo* whereas the Francophones have worked to change the previous linguistic arrangements -- a strategy that may support the Conflict Model.

In concluding, while the struggle of the past two decades may have resulted from feelings of relative deprivation that accompanied the "Quiet Revolution," and the Conflict Model might well explain the particular strategies of the opposing elements in the ethnolinguistic struggle between the French and the English, it remains true that the *Canadiens*, despite an undetermined degree of convergence of their values towards the English, continue to guard jealously their *separate* identity. Also, the chief custodian of this distinction remains, more than ever before, linguistic uniqueness. Further, demography has continued to play a crucial role in the history of Franco-English rivalry. The demographic projections of decrease in French numbers alarmed the Quebecois. Finally, measures adopted as well as resisted in Quebec, as elsewhere, have been *linguistic* in nature.

VII. SUMMARY AND CONCLUSIONS

The story of an ethnolinguistic conflict is generally a complex one. Its complexity has historical, political, sociological, psychological, as well as linguistic roots. The area of ethnolinguistic tension overlaps political sociology as well as socio- and psycho-linguistics. We alluded to this complexity in the introduction to this study and decided to primarily focus on a narrow aspect, namely, *evolution of the legal status of French and English languages in Canada*, and secondarily, to interpret this evolution in light of the socio-political history of the country.

While this research was confined to the *federal* level, several Provinces --notably Quebec, New Brunswick, Manitoba, and Ontario-- have been selectively studied to the extent that these have prominently contributed to the Franco-English ethnolinguistic tension in Canada.

The study was nominated to be *exploratory*: free from pre-defined theoretical directions. Hence, an effort was made to trace the historical evolution of the legal status of English and French languages in Canada in an atheoretical vein, albeit, the accompanying socio-political dynamics were acknowleged in the narrative.

In the following pages we present a summary of the evolution of language laws in Canada, spanning over more than two centuries of Franco-English association. This abridgement is followed by analyses and conclusions.

A. EVOLUTION OF LANGUAGE LAWS IN CANADA

Before Confederation

In 1759, the French colonists in North America were replaced by the British. The French surrendered, but nonetheless secured (a) freedom to practice Roman Catholicism, (b) continued possession of their property rights, and (c) enjoyment of their "customs and privileges." Language rights, however, were *not* included in the *Articles of Capitulation* that marked the terms of surrender to the British forces. *De facto*, though, the French engaged in virtually unfettered use of their language in their dealings with the new colonial administration. The use of French language in those early days, even by the imperial government, presumably arose out of necessity, as the French Canadians were generally devoid of English language facility. The English may have had a somewhat benevolent attitude also in part because of the impending international negotiations between Great Britain and France over the formal cession of the North American colony.

From 1763 onwards, with the signing of the *Treaty of Paris* --that finally terminated the rule of France in North America-- the British policy towards the French Canadians changed, however. Great Britain now wished to assimilate the Francophones into the English through (a) increased British settlement, (b) replacement of French with British laws, and (c) the application of religious sanctions -- notably the requirement of an anti-popery oath for holding a public office. During the early days of English civil rule such a drastic transformation was deemed impractical, however.

The first ordinance issued by Governor Murray on 17 September, 1764, therefore allowed, albeit as a temporary measure, the enforcement of French civil laws "with mere regard to English laws." Murray recognized that (a) the population of Francophones was colossally disproportionate to the English, and (b) the French were ignorant of the English vernacular. The tiny English population, however, objected to the Governor's sagacity, thereby sowing the initial seeds of ethnolinguistic rivalry between the English and the French. Imperial enquiries ensued. Royal reports reiterated that the *Canadiens* were ignorant of English vernacular, and hence were suspicious particularly of administration of justice in the English language.

The second ordinance, issued on July 1, 1766, hence provided for mixed juries, and allowed French-Canadian lawyers to plead on behalf of the *Canadiens*. The next ordinance issued in 1770 formally conceded the Francophones the right to sue/plead in either of the two languages. The ordinance of 1770 marked the first explicit recognition of French language use in the colony by the British.

With the revolt in the southern (American) colonies, the Imperial attitude towards assimilating the Francophones apparently mellowed further. In the administration of justice, the *Quebec Act* of 1774 granted that (a) French civil law be retained in Canada, (b) summons were to be issued in defendants' language, and (c) provisions were to be made for government-paid interpreters. In the spirit of courting Francophone alliance against the revolting subjects in the south, the British government also revoked the requirement of an anti-popery oath. However, Britain did not abandon their assimilationist intentions.

With the end of the American Revolutionary War and the arrival of the United Empire Loyalists, the demographic composition of Canada changed, and there was renewed interest in homogenizing the colony as an English land. The "loyalists" demanded the representative form of local government and the restoration of English laws. The *Canadiens* defended French laws and their language. The British government arrived at a compromise solution in dividing the colony along ethnolinguistic lines.

The *Constitutional Act* of 1791 bifurcated Canada into *Upper* and *Lower* Canada. The largely English-speaking Upper Canada soon replaced French laws with English, albeit all laws continued to be translated and all notices on Francophone defendants continued to be issued in French. In 1839, Upper Canada declared English as her *sole* official language.

Lower Canada, with sizable Francophone population, on the other hand, was the scene of ethnolinguistic rivalry over the language of the Legislative Assembly, the language of the Speaker, the language of legislative records, and the issue of superiority of one language over the other. The contending members of the Legislative Assembly, at last, compromised on "loose bilingualism" in the legislature. While the legal text of criminal laws was to be English, the legal version of civil laws was to be French, as the jurisprudences of the two sets of laws were in those two languages respectively. Notwithstanding the bilingual working of the legislature, however, the Colonial office insisted that all laws be "passed" in English *only*. Thus, legally speaking, English language commanded an edge over the French even in the French-majority Lower Canada, albeit the use of French language there was uninhibited.

In view of the fact that (a) Upper Canada became English, in reality as in principle, (b) Lower Canada presented difficulties in the unquestioned use of French, and (c) there were plans for Anglophone immigration in the Colony, the French Canadians reacted with *le Canadien* nationalistic movement.

The British authorities instituted a number of enquiries into the resulting colonial unrest. The consensual advice from such investigations was to amalgamate Francophones "once and for all." It was suggested that in addition to increased Anglophone immigration, the two Canadas should be united and governed by a common legislature in which the French Canadians might be reduced to a numerical minority. Further, English was recommended as the sole official language of United Canada.

The first British attempt in June 1822 to reunite the two Canadas --when the Imperial Authorities also proposed some property qualifications to restrict French numbers in the legislature-- was aborted by a pronounced French opposition; the *Canadiens* pleaded loyalty to the British monarch. However, in view of continued turmoil, Lower and Upper Canada were united by the *Union Act* of 1840 which also decreed English as the only official language in the Colony. French language, however, continued to be used -- albeit as an *un*official vernacular.

The *Union Act* of 1840, thus, for the first time in the history of North America (since the British captured Montreal and Quebec) announced *de jure*, not only that English was the official language but that it was the *sole* official language. The *Act*, thus, demoted the status of French to mere vernacular. The Francophones were disturbed with this *Act* primarily on account of curtailment of French language rights. They struggled against it and successfully lobbied for the revocation of *Article 41* of the *Act* which dealt with the language issue. As a result of the Amendment enacted in 1848, both French and English became at par. The use of both languages henceforth became mandatory in the Canadian legislature. All bills, for example, were passed and printed in *both* the languages (except in the upper chamber where translations could be asked for).

The *Union Act* of 1840 had alerted the *Canadiens* to the need to exercise greater vigilance to protect their language. Hence, in 1867, the Francophones demanded guaranteed French language rights as a *quid pro quo* for accepting Dominion status from Britain.

After Confederation

Section 133 of the *British North America Act, 1867* permitted the use of both English and French in the Province of Quebec as well as at the federal level, in courts and legislative debates. It also obligated both governments to publish all legislative proceedings and laws in *both* the languages.

The language clause of the *British North America Act* 1867, however, has been seen as inadequate not only because of its omissions but also on account of the lacunae in its *de jure* provisions. The French and English languages were supposed to be "equal" in Parliament and the Quebec legislatures. In practice, however, the English language dominated in the Federal Parliament. For a long time the use of the two languages was markedly asymmetric; laws were conceived in English and then translated into French. The French versions were hence often adjudged as poor. Also, whereas the English texts were "quickly" rendered into French, the English translations of the proceedings in French were not readily made available and sometimes were even ignored. Similarly, in the Courts of Canada absence of bilingual judges forced the French lawyers to plead in English, for they could not effectively rely on poor interpretational services.

In Quebec --by and large-- the situation was reversed. French seemed to be the working language of legislature, and English, the language of translation.

The language guarantees of the *British North America Act* were deficient also because of the omissions that included the fields of subordinate legislation, administrative tribunals, Provinces other than Quebec, public administration, education, and language as a separate head of legislation.

Consequently, a "substantial" proportion of subordinate legislation was passed *uni*lingually in the English language at the center and in French in Quebec. The use of both of the languages in subordinate legislation and in administrative tribunals, in Quebec and at the federal level, emerged only as a practical necessity rather than due to any legal requirement.

Education was a provincial responsibility. The *British North America Act* did not confer any guarantees with respect to the language(s) to be used as the media of instruction. Consequently, as the changes in the demographic composition of various Provinces provided an English majority, English was declared as *the* medium of instruction in schools in one Province after another, and the use of French language was curtailed. The abolition of French-speaking separate schools in 1877 in Prince Edward Island was followed by French language restrictions in schools of British Columbia, New Brunswick, Manitoba, and Ontario. Manitoba also went to the extent of declaring English as the only language in legislature and courts of the province, by the *Manitoba Act* of 1890.[153]

In the federal public administration, English was the superior language, by default, as, following the transfer of power from British colonial government to the Dominion of Canada, the numerical strength of Anglophone civil servants eclipsed the Francophones. The French language was first recognized in the *Civil Service Act* of 1882, which conferred a bonus of $50 in recognition of bilingual skills (in French and English) and also provided that civil service examinations could be written in either of the two languages. However, generally, bilingualism lacked salience in public administration. When *merit* replaced *patronage*, bilingual skills did not win explicit recognition as an element of merit.

The recommendations of various bodies constituted between the years 1880 and 1958 to look into the Civil Service of Canada suggested in summary that:

1. The Federal employees, minimally, should be conversant

---

[153] The *Manitoba Act* of 1890 has recently been judicially declared *ultra vires*. However, there are indications that for all practical purposes, the French victory in Manitoba is mostly symbolic -- the use of English language is the rule of the day, particularly with the current minority French population of Manitoba, which, at the time of her confederation with Canada, was in the majority.

in the language of the public they served, but preferably should be bilingual.

2. Bilinguality, or willingness to acquire it, should be considered as an element of merit.
3. Persons in charge of French and English employees should themselves be bilingual.
4. Various government positions should have language qualifications attached to them.
5. Candidates invited for an interview should be given a choice of language.
6. Efforts should be intensified to recruit Francophones in the federal public service.

Consequently, the Amendment in 1938 to the *Civil Service Act* conferred initial legal recognition to bilingual facility. Institutional bilingualism was promulgated with the *Civil Service Act* of 1960-61.

Since 1960

The late 1950s and early 1960s witnessed radical changes in the Francophone values, particularly among the Québécois youth. The Quebec educational system departed from its traditional emphasis on liberal education to the relative exclusion of technical expertise. The Roman Catholic Church lost the firm hold over the Québécois it once enjoyed. The *state* replaced the *church* as an effective organisation responsible to steer the "destiny" of the

Québécois. The *Canadiens* now aspired for material goals and ambitions that Anglophones had pursued for a long time. In search of common pursuits the two people --French- and English-Canadians-- were in competition with each other. However, the Francophones perceived themselves handicapped as they saw the "game" being played in the English language. The *Canadiens* also felt threatened when they became aware that their historical strength of numbers had been declining. This was due, in part, to their own emigration, decreased birth rate, and lack of French-speaking immigrants, but also to their greater disconcert, it was the result of Anglophone assimilation of non-French non-English immigrants, even in Quebec. Consequently, while the Federal Government embarked upon a series of steps during 1960s and 1970s to bestow greater recognition to the French language, as a language of "one of the two founding nations," the Québécois resolved to reinforce the Province of Quebec as a line of last defence to save the French "nation."

The Federal Government instituted a Royal Commission to investigate the linguo-cultural unrest in the country. The *Royal Commission on Bilingualism and Biculturalism* reported that relations between French- and English-Canadians were tense, and Canada was imperceptibly heading towards a political disaster.

On the basis of a series of remedial measures recommended by the *Royal Commission on Bilingualism and Biculturalism*, the Federal Government legislated an *Official*

Languages Act in 1969, whereby

1. French and English were declared as the two official languages of Canada with equal status in the legislative, judicial, and governmental (public administration) institutions of the Dominion of Canada;
2. bilingualism was furthered in the National Capital Region and the Federal Bilingual Districts;
3. the travelling public became entitled to bilingual service (at places where service was provided to travellers and there was "sufficient" demand for it in the two languages);
4. public notices were to be issued in both languages.

The Federal Government also announced the formation of "French Language Units" to enable Francophone civil servants to work in their own language. "Institutional bilingualism," involving classification of certain federal positions as bilingual on the one hand, and forming a class of bilingual personnel with two groups of unilingual support services on the other, was also planned. In addition, greater need was emphasized to recruit Francophones in the federal public service, and finally, extensive language training program was instituted at the federal level. Some of the tangible results of these measures included increased Francophone presence in the federal bureaucracy -- both in numbers and in terms of responsibility.

New Brunswick followed the federal example in legislating the *Official Languages of New Brunswick Act* with provisions parallel to the federal Act.

With the repatriation of the Canadian constitution[154] in 1982, the official status of French and English in New Brunswick and Canada was elevated from a *statutory* to a *constitutional* level.

Quebec, however, was not placated by the federal efforts towards promoting bilingualism. The Quebec Government legislated a number of language laws to "francize" the government, industry, and educational institutions in Quebec. A major thrust of the Quebec language Acts --Bills 85, 63, 22, and 101-- has been to arrest the "Allophone" (non-French non-English) immigrants' assimilation into the English milieu which was chiefly occurring through the English-medium education. These laws severely curtailed access to English-medium instruction in the Province of Quebec. *Bill 101* declared French as the official language of Quebec though English continued to have a special status as one of the two federal official languages. The legislated supremacy of French language in "the legislature and the courts in Quebec" was declared *ultra vires*, however (cf. Blaike v. A.G. Quebec et al.).

The Québécois resolve, nonetheless, to arrest further Anglophone assimilation of new immigrants is reflected in the exception it was granted in the *Canadian Charter of*

---

[154] The bringing home of the *British North America Act* from Britain to Canada.

Rights and Freedoms of the *Constitution Act, 1982* which otherwise provides for educational instruction in official minority languages in all Provinces.

B. ANALYSIS: *LA SURVIVANCE* TO *L'EPANOUISSEMENT*

Students of Sociology are apt to "understand" this history in the light of one or more of the currently salient theories of interethnic conflict, *viz.*, Conflict Model, Cultural Perspective, Internal Colonialism, Relative Deprivation, and Consociationalism. We have tentatively discussed the theoretical interpretation of Franco-English ethnolinguistic conflict in the summary sections of the preceding chapters. Here, we analyse this rivalry in a broader dimension. While this exercise takes cognizance of these theories, it discerns a general pattern of Franco-English conflict in Canada. In light of this panorama we shall propose a theoretical interpretation that may offer a somewhat better insight into the total situation.

Theoretical Analysis

Based on an empirical account --designed to trace the evolution of official status of French and English languages in Canadian history-- it is problematic to evaluate, comparatively or otherwise, the "theoretical fit" of each of the nominated orientations. The difficulties are manifold: (a) none of the theoretical orientations is monolithic; with diverse nuances and multifaceted operationalizations, each has a history of its own, (b) these theories represent different levels of conceptual order -- some are "structural," some socio-psychological, and some political, and (c) most importantly, the present work was *not* explicitly designed to test or evaluate any of these thoughtways in its totality.

Apropos, rather than demonstrating the veracity of all or any of these thoughtways, it would be more fruitful to acknowledge events in our review of the evolution of official status of languages in Canada that might illustrate and thereby enhance our understanding of the possible application of these theories to ethnolinguistic conflict.

To recognize indications that might support a theory, we propose a characterization of each thoughtway with respect to linguistic implication in interethnic tension.

It appears to us that *Internal Colonialism* would predict that objective (constitutionally recognised) disparity in the status of languages would be related to the political-cum-socioeconomic distance in the entangled ethnolinguistic groups. This would be particularly so when one group --invariably the subservient one-- alleges "exploitation," or unfair treatment.

Proponents of *Relative Deprivation* thesis are typically more concerned, however, with the "felt" deprivation as it stems from *perceived* disparity in the status as enjoyed by the respective language groups. Such sentiment is inferred by the adherents of this model from the peculiar behavior of an ethnolinguistic group. Such behavior could be verbal. However, to lend credibility, it should be accompanied by non-verbal actions such as taking steps evidently to remedy situations perceived as illegitimate. The sense of relative deprivation would then be seen as a motor of collective action, a socio-political movement, in interethnic relations.

The *Conflict* approach tends to identify linguistic provisions (or their absence) that are constitutionally recognized (or ignored) which tend to sustain the socio-economic disparity between the conflicting parties. The Conflict model, thus, overlaps that of Internal Colonialism.

The *Culturalists'* perspective may be divided into three distinct approaches: (a) the clash between ethnolinguistic groups may be seen as a direct result of their different value systems, (b) the disparity in the well-being --socio-politico-economic-- may be explained as "naturally" flowing from the respective value systems of the particular ethnolinguistic groups, and (c) the crux of the tension between the contending parties may be traced to the continual preoccupation of an ethnolinguistic group with safeguarding its survival as a distinct entity.

Last of all, the *Consociationalist* perspective would view specific language measures --explicit or tacit-- as working agreements between the contending ethnolinguistic groups.

Following the guidelines for identifying corroborative "evidence" for these thoughtways, it is apparent that all of these schools may contribute to the comprehension of ethnolinguistic rivalry in Canada. It bears repeating that we do not propose to provide a roster of all possible events that may be in the service of these interpretations. Our purpose is to illuminate the relevance of various theoretical orientations to the understanding of Franco-English ethnolinguistic relations in Canada. These theories are general views on interethnic conflicts. Among them there exist varying degrees of overlap; they do not necessarily compete with one another. On the contrary, one could argue that they are mutually complementary. The history of Franco-English association in Canada presents a venue for the intermingling invocation of these thoughtways. However, notwithstanding the context-specific relevance of these thoughtways to the understanding of Franco-English ethnolinguistic rivalry in Canada, we shall later on propose the *Cultural perspective*, particularly one focusing on the survival aspect of ethnolinguistic entity, as a generally more salient vector in the Franco-English struggle in Canada.

The history of Franco-English association from 1759 to 1982 provides several instances of possible application of the theories of interethnic conflict. From the very beginning, when the British replaced the French as the imperial power in "Canada," one can point to both *de facto*, and *de jure* arrangements that reflected the superior (colonial) and inferior (colonized) statuses of the English and the French, respectively. The French language was denied an officially recognized status equal to the English vernacular. The Francophone population of the colony were kept out of responsible positions in government and judiciary, *inter alia*, by the invocation of an anti-popery oath, unacceptable to Roman Catholic French-Canadians. In the upper, nominated legislative bodies, the *Canadiens* held fewer seats than the Anglophones even though their population far exceeded that of the English-speaking inhabitants. These *colonial* situations, however, support the *Conflict perspective*, as well, and thus reflect an overlap between the two models. Other examples of excluding the *Canadiens* from positions of authority included the redrawing of electoral district boundaries in preconfederal Canada as well as in Manitoba after that Province joined the Dominion. Such manipulations ensured Anglophones an upperhand over the *Canadiens* in the legislative bodies.

However, the relationship between the French and the English can not neatly be classified as one that might exist between masters and subordinates.[155] To the extent that the Francophones resisted the British sanctions on the use of

---

[155] Even René Lévesque, the architect of Sovereignty-Association movement, has acknowledged that "French Quebec was (as it remains to this day) the least ill-treated of all colonies in the world" (1976:737).

French language, French civil laws, and the Roman Catholic religion, one could argue that the Francophones contested the English policy despite the fact that after the British military victory in North America, the *Canadiens* had to accept a subordinate, colonized status. The Francophones expressed feelings of *deprivation* particularly with respect to administration of justice, and sought greater recognition of their language.

Notwithstanding the formal designs of the Imperial Government to assimilate the *Canadiens* into the English, the ruling elite in Canada embarked upon *consociational* arrangements with the newly colonized subjects of the Crown. The formal recognition and use of French language --albeit as an *unofficial* vernacular-- in all branches of the Imperial Government in Canada can be cited as an example of a remarkable consociational step. One may recall that the British government did not (or could not) dispense with this Francophone privilege/right even when Upper Canada proclaimed English as her sole official language, and the Westminster Parliament legislated English as the *only* official language of United Canada. The consociational posture of the Imperial (colonial) Government in the late 18th century may, at least in part, by explained by the situational contingencies. With a rebellious American colony in the south, and a newly conquered Francophone people in Canada who were showing signs of distress with both the British Imperial Government as well as the French ecclesiastic hierarchy, the British Colonial office perhaps found a natural ally in the French Catholic clergy (cf. Gupta, 1983).

As we note the relevance of these theoretical approaches, we also see an application of the *Cultural perspective* in the historically recognized fact that the English and the French had radically different habits and styles of life. Off and on as the King's new and old subjects made competing representations, the Imperial enquiry commissions reminded the Crown of the existence of mutual distrust that stemmed from the *linguocultural* differences between the two people, with the origins rooted in their histories.

However, we propose that the most provocative factor in the turmoil between the French and the English related to what some of the *"Culturalists"* subsume under "cultural preservation", or identify as "safeguarding of ethnolinguistic entity". The *Canadiens* perceived a threat to the French ethnolinguistic identity in the British attempt to anglify their Francophone subjects. The process of anglification, we may recall, involved the intended general replacement of French language by the English tongue. Further, the logistics of such a transformation relied primarily on "drowning" the *Canadiens* in a sea of Anglophone population.

Threatened Existence

It is noteworthy that the French were cognizant of this threat to their existence. They fought for their language rights and were suspicious of Anglophone immigration. The French actively espoused increasing their numbers through high rates of reproduction. The history of over two centuries of Franco-English relations in Canada attest to the fact that differences between the two communities increased as perceived threats to French ethnolinguistic existence became more credible.

With each demographic disturbance came a fresh movement for annihilating the Francophones and the attendant French defence of their ethnicity, chiefly through preserving their language. At the height of such struggles for survival, the Francophone demands turned into revolutionary, nationalistic movements, resulting in the rebellion of 1837 and the Sovereignty-Association movement of 1970s. Further, at both of these times there were radical changes, both apparent and anticipated, in the demographic make-up of the regions.

If a valuable contribution of studying history is the discovery of a pattern, such a pattern in the history of Franco-English ethnolinguistic relations in Canada unequivocally points to adverse consequences for the *Canadiens* as following the loss of demographic leverage. Canadian history shows that as the French population lost its predominance over English numbers, the Francophones' diminished leverage was accompanied by asymmetric bilingualism. The Constitutional Act of 1791 divided the

Colony along ethnolinguistic lines into Upper and Lower Canada with English and French majorities, respectively. Upper Canada became English, Lower Canada became bilingual (not French)! In 1867 in the Dominion Canada, the English majority provinces --Ontario, New Brunswick, and Nova Scotia-- were English. However, Quebec, the French-majority province, according to the *B.N.A. Act*, had to be bilingual. Again, Manitoba (the Red River Settlement) was a French-majority province and yet, it too, joined the federation as a bilingual Province (not unilingually French). However, as soon as the tide of French/English population ratio in Manitoba was reversed, the Anglophone-majority Manitoba legislated herself as an English province -- a legislation that we now know was *ultra vires* of the *B.N.A. Act*.

This wave of anglification was not restricted to legislative, judicial, and administrative branches of the provincial governments. It permeated another significant sector, *viz.*, education. One Province after another dispensed with or put restrictions on the use of French language instruction in schools. While English majority Provinces provided unilingually English-medium schools, the educational institutions in the French-majority Quebec remained bilingual. Under these circumstances, *prima facie*, it appears puzzling as to why Quebec remained quiet almost till the "Quiet Revolution."

The Quiescence of Quebec

The quiescence of Quebec could be interpreted in a number of ways. One reason might derive from the Quebec government's stance of non-intervention in matters pertaining to "the juro-political crises of Francophone minorities" that fell within the jurisdiction of other Provinces (cf. Gold, 1984:126), perhaps because it would not have liked others to intervene in Quebec's Provincial matters. Another reason could be their decreased numerical strength after Confederation, when the voice of the *Canadiens* was muffled at least partly by the Anglophone majority. With reduced strength they were no longer in a position to effectively challange the *de facto* inferior status of their language even in those spheres where French and English were given *de jure* status.

Another possible answer to this puzzle can be found in the Cultural theorists' character description of the *Canadiens* as quiescent, easily subdued people, who were largely docile followers of the Roman Catholic clerical hierarchy, which in turn propagated Christian and French social values. Hence the complementary pursuits of the two people might well have enabled avoidance of direct conflict of interests. While the French were described as generally contented with their lot as an agricultural society, devoted to religion and liberal education, Anglophones excelled in entreprenurial pursuits, industry and technology.

Finally, one may argue that the federal government did not pose a totally deaf ear to the Francophone concerns. The spirit of accommodation, therefore, may have also played a part in preventing an open conflict.

However, it remains remarkable that in the relatively calm era of about a hundred years of post-Confederation Canada when the two collided only occasionally, they did so when the *Canadiens* perceived an obvious threat to their existence as a separate entity. It bears repeating that the focal point of Franco-English tension in the post-Confederation century, when, on the whole, the situation was relatively quiet, was *inter alia linguistic*. And the dynamics of linguistic change, in turn, were tied in with demographic conditions. It is interesting that the same Culturalist explanation together with social-structural changes in Quebec would account for the unrest during and after the Quiet Revolution. For, now the values of the French-Canadians in Quebec seem to have changed. They now preferred to excel in the material world and to receive business and technical education, shifting their allegiance from Church to State.

Here, one is reminded that Cultural theorists do not explain the process of value (culture) change. They are content with describing the consonance of behavior with dispositional tendencies. To the extent that these value preferences are inferred from the overt behavior, the Culturalists are criticized for explanatory circularity (cf.

chapter 2).

Current Turmoil

As is the case with the long history of Franco-English association in Canada, the comprehension of current turmoil is enhanced through the intermingling effect of various thoughtways.

With alterations in the Francophone value system that drew them closer to the English Canadians in their ambitions and goals, the previous "cooperation," which was in alignment with their complementary roles, was now replaced with competition in the attainment of the same ends. In contemporary era, the Francophones apparently perceived themselves inherently handicapped by their lack of English language facility. The French and English languages, functionally, were not at par with each other. English was the main language of work not only in the Canadian public administration but also in Quebec industry. Hence, the Francophones had to learn English to compete with the Anglophones. The French Canadians resented this asymmetric linguistic handicap and expressed feelings of *relative deprivation*, particularly when they noticed that the French minority outside Quebec did not enjoy the conditions available to the English minority in Quebec.

The "Quiet Revolution," one may argue, is synonymous, *inter alia*, with the awakening to *relative deprivation* of the *Canadiens*. And the prime source of discrepant stature of the French and the English was *asymmetric* use of the two languages. Reaction to such a deprivation was the adoption of tough policies by the Quebec government that in effect would tend to *reverse* the linguistic handicap, at least in Quebec. The Quebecois approach --particularly the "francization" of the work world and the use of French language *only*, as the medium of instruction in schools-- was in line with the *Conflict Model*. It was designed to monopolize opportunities for the Francophones (to the exclusion of non-French-speaking Quebecers).

However, even at the height of felt relative deprivation and the concomitant remedial action taken by the Quebecois, one could discern that the *Canadiens* were worried about their survival in Canada as a distinct ethnic group -- as one of the two "founding nations." The threat to extinction was seen in the diminishing role played by the French language in Canada, which, in turn, was seen as precipitated by the increasingly unfavorable ratio of French- and English-speaking population not only in Canada as a whole, but also in Quebec itself.

Historically, high birth rate had been a tower of strength for the *Canadiens*. Hence, large Francophone emigration, the assimilation of "Allophones" as well as some of the Francophones as Anglophones, and the post-War trends of decreased French birth rate, all projected a grim scenario. "Could Quebec become another Manitoba?" The very thought of it would be sufficient to induce a phobic reaction and activate mechanisms that might defeat the threat to ethnolinguistic identity. It may be suggested that it is precisely such a threat that may move an "ethnic group" towards an "ethnic nation."

Other factors generally recognized as contributing to the growth of ethnic nationalism, *viz.*, perceived inequality in the distribution of societal resources, existing and/or anticipated oppression, ethnic stratification (cf. Brass, 1976; Hechter, 1976; McRoberts, 1984), and territorial concentration of an ethnic group (Gold, 1984; McRoberts, 1984) were all present in Quebec. The *Canadiens* in Quebec hence became *Québécois*, and *"la survivance"* was replaced by *"l'epanouissement"* as a movement in Quebec. Under these circumstances, it should be but natural to see the French-speaking Quebecers restive and angry with their fellow Anglophone Canadians. In fact, with ambitions now apparently common with the Anglophones, absence of agitation rather than conflict would require an explanation.

C. CONCLUSION

We therefore propose the following conclusions:

1. Ever since the Conquest (1759) the *Canadiens* have lived as a minority group.
2. Apart from experiencing day-to-day disadvantages, and the expected subordination of a minority people, the *Canadiens* have felt the necessity to be continually on guard for survival as a distinct entity.

3. Disadvantages --political, social, and economic-- have been passed on to the French, and/or perceived by them as administered, at least in part, through linguistic sanctions, both in terms of withholding recognition and/or making unequal linguistic provisions.
4. The *Canadiens* perceived a threat to Francophone survival in linguistic assimilation and loss of demographic strength.

Various theories of interethnic conflict are seen as illuminating the Franco-English tension in Canada. The fissiparous tendencies, we suggest, have been held in abeyance through an admixture of coercion and consociational (working) agreements. We propose that the Conflict perspective and Relative Deprivation may present themselves as salient interpretations of Franco-English rivalry since the Quiet Revolution, and the Colonial Model may explain the relation between the two ethnolinguistic groups in the pre-Confederal Canadian history. However, the *Culturalist's perspective*, particularly the perceived threat to French *ethnolinguistic identity*, may serve as a key factor and a continuing source of tension in understanding Franco-English ethnolinguistic relations in Canada.

Ethnolinguistic Identity

We propose that ethnolinguistic tension between any two groups anywhere but between the French and the English in

Canada, in particular, can be understood in the light of a basic assumption that both individuals and groups have identity beliefs, and that identity beliefs are nuclear beliefs in the belief systems of groups, as well as of individuals.

We further propose that ethnolinguistic beliefs are *identity* (nuclear) beliefs. Using Rokeachian schema (Rokeach, 1972) of a "belief system," such nuclear beliefs may be among the most important and dearest of beliefs in one's belief system. They are central in the sense that these beliefs are the most difficult ones to part with. Also, such beliefs are the most important ones in that any alteration in such beliefs would involve greatest amount of disturbance in the entire system -- the "system" being conceived as one of constituent elements held together in an integrated fashion. Examples of these identity beliefs would include: I'm (name); (race); (religion); (ethnicity); etc. etc.

Language identity, we propose, occupies a unique position in the core of the identity belief, presumably on account of vital interconnections of language with other segments of identity. This central status of a language in one's ethnic belief, and of ethnic beliefs in one's belief system, could be analytically conceptualized and empirically tested by using Rokeach's criterion of inter-relatedness as a basis of centrality.

Under this schema, it would make sense as to how and why an ethnic community (or group) would elevate to an "ethnic nation" when such a community senses a credible threat to its very survival.

It is hence instructive to appreciate that a group identity --particulary, an ethnolinguistic one-- would require projection of its peculiar identity on to public institutions and organizations before such collective bodies/agencies could be given allegiance, and not considered as "alien." There is reason to believe that the Quebecois did not feel that federal institutions were *their* institutions (Breton, 1984). They had to deal with the Canadian government in a language (English) they did not understand (Woolfson, 1983:42). They felt alienated.[156] If that be so, one could surmise as to why, at least in part, French Canadians in Quebec "withdrew" to Quebec alone for support and nourishment.

A series of federal-provincial constitutional conferences held in 1960s to deal with the question of repatriation of the constitution along with an amending formula demonstrated that Quebec was not willing to settle on "anything less than veto power over any changes which would affect their status" (McKinsey, 1976:351). At a time when all Provinces other than Quebec had become English, the Quebec's White Paper on Sovereignty-Association adjudged federalism as an inadequate instrument for the preservation of French language and culture (cf. Gold, 1984:110). Further, McRoberts (1984:59) suggests that the federal government's series of initiatives in the wake of World War II that involved spendings within some provincial jurisdictions, including those of education and social welfare, were looked askance by the Quebecois who deemed them as intervention in spheres that were "critical to [their] cultural distinctiveness." Such an atmosphere preceded some of the rethinking on the part of the federal government, who henceforth adopted more conciliatory attitude towards minorities.

---

[156] À la Nettler (1957:672): "The 'alienated person' is one who has been estranged from, made unfriendly toward his society and the culture it carries."

Modus Vivendi

The federal government in recent years, particularly during Pearson and Trudeau era, have tried to accommodate the depressed minorities of Canada especially the disgruntled Quebecois. These efforts have been generally focused on greater recognition of French language and, later, the policy of multiculturalism. It appears that in this, the federal government has been walking a tight rope in trying to balance competing demands from its diverse communities. While a changed order with renewed vigor in recognizing French as one of the two official languages, and in expanding its use in the federal bodies, left the Quebecois less than satisfied the Anglophones were upset with the new order. The formation of such citizen groups, as the "Society for the Preservation of English in Canada," formed ostensibly to oppose "French takeover" and to prevent "having French rammed down our throats" (cf. Gold, 1984:109), are noted as some of the signs of English resentment. Also, in the wake of heightened ethnic awareness, stimulated at least partly due to the activities of the *Royal Commission on Bilingualism and Biculturalism*, ethnic groups other than English and French voiced their own feelings of being left out. Prime Minister Pierre Trudeau therefore cautiously announced the federal *policy* (not an Act) of multiculturalism within a bilingual framework as the most suitable means of assuring cultural freedom of Canadians (Trudeau, House of Commons, October 8, 1971: 8545-8).

The Policy of Multiculturalism

The policy of multiculturalism has received mixed reaction, however. It has been criticized by both the Francophones as well as by some of the cultural groups. Part of the difficulty seems to rest with the questionable dissociation of culture from language. More importantly, however, the Québécois resentment seems to be related to the view that their status had been compromised, that such a policy amounts to "equating" the French (and the English) with other ethnic groups (cf. Bourassa, 1971; Palmer, 1975).

The *Québécois*, as French-Canadians, are unwilling to share the *symbolic* primacy of French and English with others. They are against the *official* recognition of multiculturalism as a governmental policy, though in practice the Province of Quebec itself has patronized different cultural groups through financial grants (cf. Moodley, 1983; Ryan, 1975). One could possibly consider the antagonism as a ploy to gain more attention. However, quite plausibly the reaction could reflect genuine feelings of insecurity. After all, the adverse effects for *Canadiens* that resulted from being equated with *any* other linguistic group, at least in Manitoba in the context of school education (cf. Laurier-Greenway Agreement), are part of Francophone experience.

A Dilemma

It appears that multi-ethnolinguistic societies would be perennially engaged in a delicate task of preserving their integrity through striking a balance between coercion and accommodation. While too much coercion might expose a government to the risk of a revolution, too much of accommodation could lead to disintegration. Theoretically speaking, balance could be struck at different points in different societies at different times. It appears undeniable that while coercion or non-recognition of an ethnolinguistic group may lead to an uprising, the explicit recognition helps sustain distinct identities and promotes greater autonomy. It also encourages other identifiable groups to aspire for recognition. In Canada, the federal government's explicit steps to accommodate Quebecois in order to thwart their separatist designs, has stimulated other ethnic groups to seek recognition, resulting in the policy of multiculturalism (Palmer, 1975). Again, even though Prime Minister Trudeau was careful in limiting this recognition within a bilingual framework and in emphasizing the "national unity" of various cultures and ethnic groups with a view to breaking down discriminatory attitudes and cultural jealousies, quite the opposite could ensue.

As Moodley (1983) suggests, unless culture is confined to its "expressive orientation" as embodied in peculiar food, dress, music, and dance, its recognition and persistence augurs a conflictful society. A policy of multiculturalism would be particularly problematic if the cultural affiliation adopts an "instrumental orientation" whereby ethnic adherence becomes a vehicle for (lack of) mobilization and grievances over men with similar characteristics earning dissimilar wages.

There is a possibility of evoking fresh ethnic fervor and a new series of demands, especially with future demographic changes in the country. Already there are more Ukrainians than French-speaking Saskatchewanites in Saskatchewan, and Canadians of Italian origin in Ontario may soon outnumber Franco-Ontarions who constitute the largest Francophone minority outside Quebec (Gold, 1984:122). While accommodation may be a key to preventing revolutionary changes, it carries an inherent risk of promoting movements for independence among other groups. In Canada, *Parti Acadiens* --formed in early 1970s by radical Francophones of New Brunswick-- for example, included political independence as part of their manifesto (Gold, 1984:116).

To conclude, the French waged a battle of ethnic survival from the time of capitulation to the day of repatriation of the Canadian constitution. Language has played a unique role in the French saga of interethnic conflict with the English. Linguistic affiliations have outlasted some of the other ethnic markers like religous fervor, educational orientation, goals of life, and material values.

If history is useful in driving home any lessons, it suggests that the French may survive in Canada as a *nation* as long as their language enjoys a special permissible status. Moreover, aware of the symbiosis of their identity with their language, it seems probable that the French will continue to defend their vernacular stoutly.

Our peculiar interpretation of the Franco-English history in Canada --emphasising *the perceived threat to French identity as pivotal to the inter-ethnic tension*, and further, *the role of language as not only the core of French identity but also a viable instrument of defending their separate nationhood*-- does not denigrate other theoretical orientations to understanding ethnolinguistic conflicts.

Again, this emphasis does not deny the recognition that a concatenation of factors contribute to the precipitation of a crisis.

A priori, one could argue that the different thoughtways invoked by different scholars to understand competing ethnic claims in a multi-ethnic society emphasize *different* facets of a multi-dimensional phenomenon. Hence, all of these interpretations could be validated in explaining an interethnic conflict. None of these understandings need be incorrect. Further, *whichever* orientation is adopted, linguistic claims are found implicated in interethnic rivalry in Canada. The salience of language may stem from the role it plays in determining one's identity. The loss of ethnic language may perhaps be the most crucial blow to ethnocentric pride. Language may be seen enjoying such a unique status because of its peculiar part in human culture and socialization processes, and its intricate relationship with conceptual ability.

VIII. REFERENCES

A. ACTS, ORDINANCES, REGULATIONS, etc.

1759 Articles of the Capitulation of Quebec, 1759
(reproduced in Shortt and Doughty, 1918)

1760 Articles of the Capitulation of Montreal, 1760
(reproduced in Shortt and Doughty, 1918)

1763 Treaty of Paris, February 10, 1763
(reproduced in Shortt and Doughty, 1918)

The Royal Proclamation of October 7, 1963
(reproduced in Shortt and Doughty, 1918)

1764 An Ordinance for regulating and establishing the Courts of Judicature in this Province, September 17, 1764
(reproduced in Shortt and Doughty, 1918)

1766 Ordinance of 1766
(reproduced in Shortt and Doughty, 1918)

1770 An Ordinance for the more effectual administration of justice, and for regulating the Courts of Law in this Province, 1770.
(reproduced in Shortt and Doughty, 1918)

1774 The Quebec Act of 1774, or, An Act for making effectual Provision for the Government of the Province of Quebec in North America
14 George III, c.83

1777 An Ordinance to regulate the proceedings in the courts of civil judicature in the province of Quebec -- 25 February, 1777
(reproduced in Shortt and Doughty, 1918)

An Ordinance for establishing courts of Criminal jurisdiction in the Province of Quebec -- March 4, 1777
(reproduced in Shortt and Doughty, 1918)

1791 The Constitutional Act
31 George III, c.31

Order-in-Council dividing the Province of Quebec into the Provinces of Upper and Lower Canada -- 24 August, 1791
(reproduced in Shortt and Doughty, 1918)

1792	An Act introducing English Civil Law into Upper Canada 32 George III, c.1
1793	An Act for the Division of the Province of Lower Canada, for Amending the Judicature thereof, and for Repealing Certain Laws Therein Mentioned STATUTES OF LOWER CANADA 1793, 34 George III, c.6
1794	An Act to establish a Superior Court of Civil and Criminal Jurisdiction, and to Regulate the Court of Appeal STATUTES OF UPPER CANADA 1794, 34 George III, c.2
1801	An Act to Amend Certain Forms of Prceedings in the Courts of Civil Jurisdiction in this Province and to Facilitate the Administration of Justice STATUTES OF LOWER CANADA 1801, 41 George III, c.7
1836	An Act to make temporary Provision for the Government of Lower Canada -- February 10, 1838 1 & 2 Victoria, c.9
1840	An Act to re-unite the Provinces of Upper and Lower Canada, and for the Government of Canada -- 23rd July, 1840 3 & 4 Victoria, c.35
1841	An Act to Provide for the Translation into French Language of the Laws of this Province and for other Purposes Connected Therewith STATUTES OF CANADA 1841, 4 & 5 Victoria, c.11
	An Act to provide for the easy and expeditious administration of justice in Civil Causes ... in Lower Canada STATUTES OF THE PROVINCE OF CANADA, 1841, 4 & 5 Victoria, c.20
1843	An Act to Repeal Certain Acts and Ordinances Therein Mentioned, and to Make Better Provisions for the Administration of Justice in Lower Canada STATUTUES OF THE PROVINCE OF CANADA, 1843, 7 Victoria, c.16
	An Act for the Establishment of a Better Court of Appeals in Lower Canada STATUTUES OF THE PROVINCE OF CANADA, 1843, 7 Victoria, c.18

An Act to Provide for the Summary Trial of Small
Causes in Lower Canada
STATUTES OF CANADA 1843, 7 Victoria, c.19

1844-45 An Act to Provide for the Distribution of the
Printed Copies of the Laws
STATUTES OF CANADA 1844-45, 7 & 8 Victoria, c.68

1846 STATUTES OF THE PROVINCE OF CANADA, 1846,
9 Victoria, c.18

1848 STATUTES OF CANADA, 11 & 12 Victoria, c.56

1849 STATUTES OF THE PROVINCE OF CANADA,
12 Victoria, c.38

An Act to incorporate the Bar of Lower Canada
STATUTES OF THE PROVINCE OF CANADA, 1849,
12 Victoria, c.46

1857 An Act to provide for the Codification of the
Laws of Lower Canada relative to Civil
Matters and Procedure
STATUTES OF THE PROVINCE OF CANADA, 1857,
20 Victoria, c.43

1859 An Act Respecting the Consolidated Statutes
for Upper Canada
22 Victoria, c.30

1863 The Separate Schools Act, 1863
26 Victoria, c.5

1864 An Act respecting Jurors and Juries
STATUTES OF THE PROVINCE OF CANADA, 1864,
27 & 28 Victoria, c.41

1867 The British North America Act, 1867
(An Act for the Union of Canada, Nova Scotia,
and New Brunswick, and the Government thereof;
and for purposes connected therewith)
-- 29 March, 1867
30 & 31 Victoria, c.3

1868 An Act to Amend and consolidate the several Acts
relating to Education
STATUTES OF PRINCE EDWARD ISLAND 1868, c.6

1870 The Manitoba Act, 1870
STATUTES OF CANADA 1870, c.3

1871 The British North America Act, 1871
34 & 35 Victoria, c.28 (U.K.)

1875	The Northwest Territories Act, 1875 REVISED STATUTES OF CANADA 1886, c.50
1877	The Public Schools Act 40 Victoria, c.1
1882	The Civil Service Act STATUTES OF CANADA 1882, 45 Victoria, c.4
1888	Amendment of the Civil Service Act STATUTES OF CANADA 1888, 51 Victoria, c.12
	An Act respecting the settlement of the Jesuits' Estates STATUTES OF QUEBEC, 1888, c.13
1890	An Act to provide that the English Language shall be the official language of the Province of Manitoba REVISED STATUTES OF MANITOBA 1954, c.187; STATUTES OF MANITOBA 1890, c.14
1896	The Public Schools Act REVISED STATUTES OF ONTARIO 1897, c.292 STATUTES OF ONTARIO 1896, c.70
1897	An Act to amend the "Schools Act" REVISED STATUTES OF MANITOBA 1919, c.165; STATUTES OF MANITOBA 1897, c.26
1905	The Alberta Act STATUTES OF CANADA 1905, c.3
	The Saskatchewan Act STATUTES OF CANADA 1905, c.42
1906	An Act respecting the Interpretation of Statutes REVISED STATUTES OF ALBERTA 1955, c.160 REVISED STATUTES OF ALBERTA 1942, c.1 REVISED STATUTES OF ALBERTA 1922, c.1 STATUTES OF ALBERTA 1906, c.3
1908	An Act to amend the Civil Service Act [Assented to 20th July, 1908] STATUTES OF CANADA 1908, 7 & 8 Edward VII, c.15
1909	Education Act REVISED STATUTES OF QUEBEC 1964, c.235 REVISED STATUTES OF QUEBEC 1941, c.59 REVISED STATUTES OF QUEBEC 1925, c.133 REVISED STATUTES OF QUEBEC 1909
1913	The Public Schools Act REVISED STATUTES OF MANITOBA 1913, c.165

1915	The School Act STATUTES OF SASKATCHEWAN 1915, c.23
1916	An Act to further amend "The Public Schools Act" STATUTES OF MANITOBA 1916, c.88
1918	The Civil Service Act, 1918 8 & 9 George V, c.12
1918-19	An Act to amend the School act STATUTES OF SASKATCHEWAN 1918-19, c.48
1920	An Act respecting Schools REVISED STATUTES OF SASKATCHEWAN 1930, c.131 REVISED STATUTES OF SASKATCHEWAN 1920, c.110
1925	The Interpretation Act REVISED STATUTES OF QUEBEC 1964, c.1 REVISED STATUTES OF QUEBEC 1941, c.1 REVISED STATUTES OF QUEBEC 1925, c.1
1930	An Act to amend the School Act (No. 2) STATUTES OF SASKATCHEWAN 1930, c.46
1931	An Act respecting Schools REVISED STATUTES OF ALBERTA 1942, c.175 STATUTES OF ALBERTA 1931, c.32
	An Act to amend the School Act STATUTES OF SASKATCHEWAN 1931, c.52
1934	An Act to incorporate the Bank of Canada [Assented to 3rd July, 1934] STATUTES OF CANADA 1934, 24 & 25 George V, c.43
1938	An Act to amend the Civil Service Act STATUTES OF CANADA 1938, 2 George VI, c.7
1942	Civil Service Regulation 32A of 1942
1949	The British North America (No. 2) Act 13 George VI, c.81 (U.K.)
1950	An Act to provide for the Publication of Statutary Regulations REVISED STATUTES OF CANADA 1952, c.235
1952	An Act respecting the Form and Interpretation of Statutes REVISED STATUTES OF CANADA 1952, c.158
	An Act respecting the Publication of Statutes REVISED STATUTES OF CANADA 1952, c.230

Canadian Citizenship Act
REVISED STATUTES OF CANADA 1952, c.33

Judicature Act
REVISED STATUTES OF NEW BRUNSWICK 1952, c.120

The Public Schools Act
STATUTES OF MANITOBA 1952, c.50

The Evidence Act
REVISED STATUTES OF NEW BRUNSWICK 1952, c.74

The Regulations Act
REVISED STATUTES OF CANADA 1952, c.235

1958 An Act respecting Public Schools
[Assented to 20th March, 1958]
STATUTES OF BRITISH COLUMBIA 1958, c.42

1960 An Act for the Recognition and Protection of Human Rights and Fundamental Freedoms
(Assented to 10 August, 1960)
8 & 9 Elizabeth II
STATUTES OF CANADA 1960, c.44

Canada Elections Act
STATUTES OF CANADA 1960, c.39

1960-61 The Civil Service Act
STATUTES OF CANADA 1960-61, c.57

1962 An Act relating to Magistrates
(Assented to 29 March, 1962)
STATUTES OF BRITISH COLUMBIA 1962, c.36

1964 Cities and Towns Act
REVISED STATUTES OF QUEBEC 1964, c.193

Gas, Water and Electricity Companies Act
REVISED STATUTES OF QUEBEC 1964, c.285

Interpretation Act
REVISES STATUTES OF QUEBEC 1964, c.1

Labour Code
REVISED STATUTES OF QUEBEC 1964, c.141

The Quebec Companies Act
REVISED STATUTES OF QUEBEC 1964, c.271

Unclaimed Goods Sale Act
REVISED STATUTES OF QUEBEC 1964, c.316

1964-65 Companies Act
STATUTES OF CANADA 1964-65, c.52

1967 An Act respecting employment in the Public Service of Canada
(Assented to 23 February, 1967)
14-15-16 Elizabeth II, 1967, c.71

Public Service Employment Regulations
SOR/67-129, THE CANADA GAZETTE PART II
VOLUME 101, April 12, 1967

1967-68 An Act respecting the status of the official languages of Canada
REVISED STATUTES OF CANADA 1970, c.O-2

1969 An Act respecting the Official Languages of New Brunswick
(Assented to April 18, 1969)

An Act to promote the French Language in Quebec
(Assented to 28 November, 1969)
STATUTES OF QUEBEC 1969, c.9

1970 The Judicature Act
REVISED STATUTES OF ONTARIO 1970, c.228

1974 The Official Languages Act
(Assented to 31 July, 1974)
STATUTES OF QUEBEC 1974, c.22

1977 The Charter of the French Language
(Assented to August 26, 1977)
STATUTES OF QUEBEC 1977, c.5

1982 The Constitution Act, 1982

B. JUDICIAL CASES

A.G. Manitoba v. Forest
[1979] 30 NATIONAL REPORTER 213 (S.C.C.)

Atty-Gen. for Ontario v. Canada Temperence Federation
[1946] APPEAL CASES 193

Azdo, Neessan Azdo v. Minister of Employment and Immigration.
Court of Appeal.
[1980] 2 C.F., 65

Bauer, Jean O. v. Appeal Board of the Public
Service Commission.
Court of Appeal.
[1973] F.C., 626

Blaikie v. Attorney General of Quebec et al.
Supreme Court of Canada
[1980] 30 NATIONAL REPORTER, 225

Bradlaugh, Charles v. Henry Lewis Clarke
[1883] APPEAL CASES, vol. VIII, 354

Brophy v. A.G. Manitoba
[1895] APPEAL CASES 202

C. Itoh and Company (Canada) Ltd. and General Footwear
Company Limited v. The Deputy Minister of
National Revenue for Customs and Excise
1 CANADA CUSTOMS AND EXCISE REPORTS, 187

Caledonian Railway Company v. North British Railway Company
[1881] APPEAL CASES, vol. VI, 114

City of Regina and Others v. J. McCarthy
(On appeal from the Supreme Court of Saskatchewan)
[1918] APPEAL CASES, 911.

City of Winnepeg v. Barrett
[1892] APPEAL CASES, 445

City of Winnepeg v. Logan
[1892] APPEAL CASES, 445

Composers, Authors and Publishers Association Ltd. v.
Western Fair Association.
[1951] SUPREME COURT REPORTS, 596

Dies v. British and International Mining and
Finance Coroporation Limited.
[1939] 1 Kings Bench, 724

Ex parte Renaud and others
[1873] 14 NEW BRUNSWICK REPORTS 273

Food Machinery Corporation v. Registrar of Trade Marks
Exchequer Court of Canada
[1946] 2 DOMINION LAW REPORTS, 258

Forest v. Attorney General of Manitoba
Supreme Court of Canada
[1980] 30 NATIONAL REPORTER, 213

General Motors Acceptance Corporation of Canada Ltd. v.
Perozni
[1965] 51 DOMINION LAW REPORTS (2d) 724
[1965] 52 WESTERN WEEKLY REPORTS 32

Jones v. Attorney-General of Canada et al.
Supreme Court of Canada
[1974] 45 DOMINION LAW REPORTS, 583

Kelso, Donald v. Government of Canada
35 NATIONAL REPORTER, 21

Maher v. Town of Portland
[1874] WHEELER'S CONFEDERATION LAW OF CANADA p.338

Mackell v. Ottowa Separate School Trustees
Appellate Division
[1915] XXXIV ONTARIO LAW REPORTS, 335

McDonald v. Lancaster Separate School Trustees
[1916] XXXV ONTARIO LAW REPORTS, 614

Miller and Kyling v. The Queen
Supreme Court of Canada
10 DOMINION LAW REPORTS, 785

Perusse et Papa v. Commissaire d'Ecole St. Léonard de
Port-Maurice, S.C. Montreal, Sept. 25, 1968

Re Canadian Javelin Ltd. v. Restrictive Trade
Practices Commission
117 DOMINION LAW REPORTS (3d), 82

Re Forest and Registrar of Court of Appeal of Manitoba
[1977] 77 DOMINION LAW REPORTS (3d) 445

Re Hayward et al.
Ontario Supreme Court
[1934] 2 DOMINION LAW REPORTS, 210

Re Official Languages Act
New Brunswick Supreme Court, Appeal Division
5 NEW BRUNSWICK REPORTS (2d), 653

Re Official Languages Act
Supreme Court of Canada
7 NEW BRUNSWICK REPORTS (2d), 526

Re Ottawa Separate Schools
Appellate Division
XLI ONTARIO LAW REPORTS, 259

Re Price
New Brunswick Supreme Court
Queen's Bench Division
8 NEW BRUNSWICK REPORTS (2d), 620

Regina v. Council of the College of Physicians and
Surgeons of British Columbia, Ex parte Ahmad
British Columbia Supreme Court
[1971] 15 DOMINION LAW REPORTS (3d), 105

Regina v. Dollan and Newstead
Ontario High Court of Justice
53 CANADIAN CRIMINAL CASES (2d), 146

Regina v. Forest
[1976] 74 DOMINION LAW REPORTS (3d) 704

Regina v. Murphy, ex parte Belisle and Moreau
69 DOMINION LAW REPORTS (2d) 530

Regina v. O'Donnell
British Columbia Court of Appeal
[1979] 1. WESTERN WEEKLY REPORTS, 385

Regina v. Saulnier
Nova Scotia Supreme Court, Appeal Division
34 NOVA SCOTIA REPORTS (2d)
59 ATLANTIC PROVINCES REPORTS, 88

Regina v. Watts, Ex parte Poulin
British Columbia Supreme Court
[1968] 69 DOMINION LAW REPORTS (2d), 526

Regina v. Watts, Ex parte Poulin
British Columbia Court of Appeal
1 DOMINION LAW REPORTS (3d), 239

Regina v. Woods and Gruener
Ontario Supreme Court (Court of Appeal)
19 CRIMINAL REPORTS (3d), 136

Roman Catholic Separate School Trustees for Tiny
and Others v. The King
On Appeal from the Supreme Court of Canada
House of Lords and Privy Council
[1928] APPEAL CASES, 363

Russell v. The Queen
House of Lords and Privy Council
[1882] 7 APPEAL CASES, 829

Switzman v. Elbling et le Procureur général de la
province de Quebec
[1957] SUPREME COURT REPORTS 285

The King v. Dubois
[1946] SUPREME COURT REPORTS 378

The Queen v. Jean B.
On Appeal from the Court of Appeal of Quebec
[1980] 1 SUPREME COURT REPORTS, 80

The Queen v. The Bishop of Oxford
Queen's Bench Division
[1878-79] IV QUEEN'S BENCH DIVISION, 245

The Attorney-General for Alberta and G.C. Winstanley
v. Atlas Lumber Company Limited
On Appeal from the Appellate Division of
the Supreme Court of Alberta
[1941] SUPREME COURT REPORTS, 87

Trustees of the Roman Catholic Separate Schools
for Ottawa v. Ottawa Corporation and Others.
(On Appeal from the Supreme Court of Ontario,
Appellate Division)
House of Lords and Privy Council
[1917] APPEAL CASES, 76

Trustees of the Roman Catholic Separate Schools for
the City of Ottawa v. Mackell and Others.
(On Appeal from the Supreme Court of Ontario,
Appellate Division)
House of Lords and Privy Council
[1917] APPEAL CASES, 62

Trustees of the Roman Catholic Separate Schools for
the City of Ottawa v. The Quebec Bank and Others.
On Appeal from the Supreme Court of Ontario.
House of Lords and Privy Council.
[1920] APPEAL CASES, 230

Valin v. Langlois
[1880] 3 SUPREME COURT OF CANADA

Warburton, Elizabeth v. Loveland, on the demises of
George Ivie and Henry Ivie and Others.
(In Error from the Court of Exchequer.)
HUDSON AND BROOKE,
[1827-28] KING'S BENCH, vol. 1.

Waugh v. Middleton and Another
[1835] 8 EXCH. 352

C. ARTICLES, BOOKS, REPORTS

Abel, Albert S.
1968 "What peace, order and good government?"
WESTERN ONTARIO LAW REVIEW 7: 1-17

Abel, Albert S.
1974a "Re Official Languages Act: A comment"
McGILL LAW JOURNAL, 20: 136-142

Abel, Albert S.
1974b "Re Official Languages Act: A comment"
McGILL LAW JOURNAL, 20: 595-597

Abell, Troy and Larry Lyon
1979 "Do the differences make a difference?
An empirical evaluation of the culture of poverty
in the United States"
AMERICAN ETHNOLOGIST, 6 (August): 602-621

Aberle, David F.
1970 "A note on relative deprivation theory as applied
to millenarian and other cult movements,"
in Sylvia L. Thrupp (Ed.),
MILLENNIAL DREAMS IN ACTION: STUDIES IN
REVOLUTIONARY RELIGIOUS MOVEMENTS.
New York: Schocken Books: 209-214

Abu-Laban, Baha and Donald Mottershead
1981 "Cultural pluralism and varieties
of ethnic politics"
CANADIAN ETHNIC STUDIES, XIII (3):44-63

Adamson, Christopher R., Peter C. Findlay,
Michael K. Oliver, and Janet Solberg
1974 "The unpublished research of the Royal Commission
on Bilingualism and Biculturalism"
CANADIAN JOURNAL OF POLITICAL SCIENCE
7 (December): 709-720

Adler, Max K.
1977 COLLECTIVE AND INDIVIDUAL BILINGUALISMS:
A SOCIO-LINGUISTIC STUDY
Helmut Buske Verlag Hamburg

Alter, Robert
1972 "A fever of ethnicity"
COMMENTARY, 53 (June): 68-73

Anderson, Alan B.
1978 "Linguistic trends among Saskatchewan
ethnic groups," in Martin L. Kovacs (Ed.)
ETHNIC CANADIANS: CULTURE AND EDUCATION

Anderson, Alan B.
1979 "The survival of ethnolinguistic minorities:
Canadian and comparative research," in
Howard Giles and Bernard Saint-Jacques (Eds.)
LANGUAGE AND ETHNIC RELATIONS
London, England: Pergamon Press: 67-85

Asselin, Olivar
1929 "Industry in the economy of French Canada"
(Translated from 'L'Industrie dans l'économie
du Canada francaise'), in Ramsay Cook (ed.)
FRENCH CANADIAN NATIONALISM: AN ANTHOLOGY
Macmillan of Canada, 1978: 182-187

Bakvis, Herman
1978 "French Canada and the 'bureaucratic phenomenon'"
CANADIAN PUBLIC ADMINISTRATION
21 (Spring): 103-124

Balandier, G.
1966 "The colonial situation:
A theoretical approach," in
Immanuel Wallerstein,
SOCIAL CHANGE: THE COLONIAL SITUATION
John Wiley and Sons: 34-61

Beardsmore, Hugo Baetens
1982 BILINGUALISM: BASIC PRINCIPLES
Clevedon, Avon: Tieto

Beachesne, Arthur
1958 RULES AND FORMS OF THE HOUSE OF COMMONS
OF CANADA WITH ANNOTATIONS, COMMENTS
AND PRECEDENTS. Fourth Edition.
Toronto: The Carswell Co. Ltd.

Beaudoin, Pierre
1978 "Parallel between 'Bill 22' and 'Bill 101'"
MEREDITH MEMORIAL LECTURES 1976-1977
McGill University Faculty of Law: 113-121

Behiels, Michael
1983 "Recent Quebec historiography: reinterpreting
French-Canada's past"
AMERICAN REVIEW OF CANADIAN STUDIES
XIII (2): 90-103

Berlin, Sir Isaiah
1960 "History and theory:
The concept of scientific history"
HISTORY AND THEORY, 1 (1): 1-31

Blackburn, G.A.
1969 "A bilingual and bicultural public service"
CANADIAN PUBLIC ADMINISTRATION
12 (Spring): 36-44

Blauner, Robert
1971 "Internal colonialism and ghetto revolt," in
James A. Geschwender (ed.)
THE BLACK REVOLT
New Jersey: Prentice-Hall

Blauner, Robert
1972 RACIAL OPPRESSION IN AMERICA
New York: Harper and Row

Blauner, Robert
1973 "Colonized and immigrant minorities," in
Robert Blauner, Troy Duster, Jack Forbes,
Isao Fujimoto and Octano Romano (eds.)
THE THIRD WORLD WITHIN
California: Wadworth Publishing Co.

Bliss, J.M.
1966 CANADIAN HISTORY IN DOCUMENTS, 1763-1966
Ryerson Press

Bouchette, Errol
1901 "Economic development in the
Province of Quebec," translated from
'L'Evolution économique dans la Province
du Quebec.' In Ramsay Cook (ed.)
FRENCH CANADIAN NATIONALISM: AN ANTHOLOGY
Macmillan of Canada, 1978: 161-181

Boulet, Jac-André
1980 LANGUAGE AND EARNINGS IN MONTREAL
Economic Council of Canada

Bourassa, Henri
1902 "French-Canadian patriotism:
What it is, and what it ought to be"
Translated from 'Le Patriotisme
canadien-française, ce qu'il est,
ce qu'il doit être'
In Ramsay Cook (ed.)
FRENCH CANADIAN NATIONALISM: AN ANTHOLOGY
Macmillan of Canada, 1978: 118-131

Bourassa, Henri
1913 "The French language and the future of our race"
Translated from 'La Langue française et l'avenir de notre race'
In Ramsay Cook (ed.)
FRENCH-CANADIAN NATIONALISM: AN ANTHOLOGY
Macmillan of Canada, 1978: 132-146

Bourassa, Robert
1975 "Objections to multiculturalism"
in Howard Palmer (ed.)
IMMIGRATION AND THE RISE OF MULTICULTURALISM
Copp Clark Publishing : 151-152

Boyle, D.G.
1971 LANGUAGE AND THINKING IN HUMAN DEVELOPMENT
London: Hutchison Co. Ltd.

Brady, Alexander
1963-1964
"The meaning of Canadian nationalism"
INTERNATIONAL JOURNAL, XIX: 348-363

Brass, Paul R.
1976 "Ethnicity and nationality formation"
ETHNICITY : 225-241

Brass, Paul R. and Pierre L. van den Berghe
1976 "Ethnicity and nationalism in world perspective"
ETHNICITY : 197-201

Brazeau, E. Jacques
1958 "Language differences and occupational experience"
THE CANADIAN JOURNAL OF ECONOMICS AND POLITICAL SC.
XXIV, 4 (November): 532-540

Brazeau, Jacques and Edouard Cloutier
1977 "Interethnic relations and the language issue in contemporary Canada: a general appraisal"
in Milton J. Esman (Ed.)
ETHNIC CONFLICT IN THE WESTERN WORLD
Cornell University Press

Breton, Albert
1978 BILINGUALISM: AN ECONOMIC APPROACH
Montreal, Quebec: C.D. Howe Research Institute

Breton, Raymond
1973 "The socio-political dynamics of
October events" in Dale C. Thomson (ed.)
QUEBEC SOCIETY AND POLITICS:
VIEWS FROM THE INSIDE
Toronto: McClelland & Stewart: 213-234

Breton, Raymond
1984 "The production and allocation of symbolic
resources: an analysis of the linguistic and
ethnocultural fields in Canada"
CANADIAN REVIEW OF SOCIOLOGY AND ANTHROPOLOGY
21(2): 123-144

Bruner, Jerome S.
1964 "The course of cognitive growth"
AMERICAN PSYCHOLOGIST, 19: 1-15

Brunet, Michel
1978 "Canadians and Canadiens"
In Ramsay Cook (ed.)
FRENCH CANADIAN NATIONALISM: AN ANTHOLOGY
Toronto: Macmillan of Canada: 284-293

Buchanan, A.W. Patrick
1925 THE BENCH AND BAR OF LOWER CANADA DOWN TO 1850
Montreal: Burton's Limited

Bujold, Gilles
1977 "Official languages in Canada: a review
of the constitutional issues"
UNIVERSITY OF NEW BRUNSWICK LAW JOURNAL
26 (November): 47-63

Burt, A.L.
1933 THE OLD PROVINCE OF QUEBEC
Toronto: The Ryerson Press

Cameron, David
1974 NATIONALISM, SELF-DETERMINATION AND THE
QUEBEC QUESTION
Toronto: Macmillan

Canada. Legislative Assembly
1854 RULES AND STANDING ORDERS OF THE LEGISLATIVE
ASSEMBLY OF CANADA

Canada. Parliament
1865 PARLIAMENTARY DEBATES ON THE SUBJECT OF THE CONFEDERATION OF THE BRITISH NORTH AMERICAN PROVINCES
Qubec: Hunter, Rose and Company.

Canada. Parliament
HOUSE OF COMMONS DEBATES

Canada. Parliament
SENATE DEBATES

Canada. Royal Commission on Government Organisation
1962 REPORT OF THE ROYAL COMMISSION ON GOVERNMENT ORAGANISATION
Ottowa: Information Canada

Canada. Royal Commission on Administrative Classification in the Public Service
REPORT

Canada. Royal Commission to Inquire into the Organisation of the Civil Service Commission
REPORT

Canada. Civil Service Commission
CIVIL SERVICE COMMISSION (HEENEY) REPORT

Canada. Royal Commission on Bilingualism and Biculturalism
1965 PRELIMINARY REPORT

Canada. Royal Commission on Bilingualism and Biculturalism
1967-1969
REPORT OF THE ROYAL COMMISSION ON BILINGUALISM AND BICULTURALISM
Ottowa: Information Canada

Canada. Commissioner of Official Languages
1971-1972
SECOND ANNUAL REPORT 1971-1972
Ottowa: Information Canada

Canada. Commissioner of Official Languages
1976 FIFTH ANNUAL REPORT OF THE COMMISSIONER OF OFFICIAL LANGUAGES, 1975
Ottowa: Information Canada

Canada. Public Service Commission
1978 ANNUAL REPORT 1977
Ottowa

Canada. The Task Force on Canadian Unity
1979 A FUTURE TOGETHER: OBSERVATIONS AND RECOMMENDATIONS

Cappon, Paul
1978 "Nationalism and inter-ethnic and linguistic conflict in Quebec"
In Leo Driedger (ed.)
THE CANADIAN ETHNIC MOSAIC: A QUEST FOR IDENTITY
McClelland and Stewart

Carmichael, Stokely and Charles V. Hamilton
1967 BLACK POWER: THE POLITICS OF LIBERATION IN AMERICA
New York: Random House

Carson, John J.
1972 "Bilingualism in the public service"
CANADIAN PUBLIC ADMINISTRATION
15 (Summer): 190-193

Carson, John J.
1978 "Bilingualism revisited: or the confessions of a middle-aged and belated francophile"
CANADIAN PUBLIC ADMINISTRATION
21 (Winter): 539-547

Cattell, Raymond B.
1950 "The principal culture patterns discoverable in the syntal dimensions of existing nations"
THE JOURNAL OF SOCIAL PSYCHOLOGY, 32: 215-253

Cohen, Percy C.
1973 MODERN SOCIAL THEORY
London: Heinemann

Collins, Randall
1968 "A comparative approach to political sociology,"
in Reinhard Bendix (Ed.)
STATE AND SOCIETY: A READER IN COMPARATIVE POLITICAL SOCIOLOGY.
Berkeley: University of California Press: 42-67

Collins, Randall
1971 "Functional and conflict theories of educational stratification"
AMERICAN SOCIOLOGICAL REVIEW
36 (December): 1002-1019

Collins, Randall
1975 CONFLICT SOCIOLOGY: TOWARD AN EXPLANATORY SCIENCE
Academic Press

Conklin, William C.
1979 "Constitutional ideology, language rights and political disunity in Canada"
UNIVERSITY OF NEW BRUNSWICK LAW JOURNAL
28 (Spring): 39-65

Cook, Ramsay
1964-1965
"The Canadian dilemma"
INTERNATIONAL JOURNAL, XX (Winter): 1-19

Cook, Ramsay
1965 "The French-Canadian question"
POLITICAL QUARTERLY 36: 5-19

Cook, Ramsay
1970 "Nationalism in Canada or Portnoy's complaint revisited"
THE SOUTHERN ATLANTIC QUARTERLY
LXIX (Winter): 1-19

Cook, Ramsay (ed.)
1978 FRENCH CANADIAN NATIONALISM: AN ANTHOLOGY
Macmillan of Canada

Coons, W.H., Donald M. Taylor & Marc-Adelard Tremblay (eds.)
1977 THE INDIVIDUAL, LANGUAGE AND SOCIETY IN CANADA
Ottowa: The Canada Council

Côté, E.A.
1968 "The public services in a bicultural community"
CANADIAN PUBLIC ADMINISTRATION
11 (Fall): 280-290

Creighton, Donald
1956 THE EMPIRE OF THE ST. LAWRENCE
Toronto: The Macmillan Co. of Canada Ltd.

Crouch, Alan
1981 "Interpreters, translators and legal services: towards a better understanding"
LAW INSTITUTE JOURNAL 55 (May): 264-269

Das, Mitra
1978 "Internal colonialism and the movement for Bangladesh: a sociological analysis"
CONTRIBUTIONS TO ASIAN STUDIES, 12: 93-104

Davies, James C.
1962 "Towards a theory of revolution"
AMERICAN SOCIOLOGICAL REVIEW XXVII (February): 5-19

De Mestral, Armand L.C. and William Fraiberg
1966-1967
"Language guarantees and the power to amend the Canadian Constitution"
McGILL LAW JOURNAL 12(4): 502-519

Devine, Patrick
1977 "Language rights in Canada and Quebec's Official Language Act"
TORONTO UNIVERSITY FACULTY OF LAW REVIEW 35: 114-125

Dion, Léon
1973 "Quebec and the future of Canada"
In Dale C. Thomson (ed.)
QUEBEC SOCIETY AND POLITICS: VIEWS FROM THE INSIDE
Toronto: McClelland and Stewart

Dobell, Peter C.
1977 "Quebec separatism: domestic and international implications"
THE WORLD TODAY 33 (April): 149-159

Dofny, Jacques and Marcel Rioux
1964 "Social class in French Canada," in Marcel Rioux and Yves Martin (eds.)
FRENCH-CANADIAN SOCIETY, VOLUME I: 307-318
McClelland and Stewart Limited
(Translated from REVUE FRANÇAISE DE SOCIOLGIE III, 3 (juillet-septembre 1962): 290-300

Donagan, Alan
1964 "Historical explanation: The Popper-Hempel theory reconsidered"
HISTORY AND THEORY IV (1): 3-26

Doughty, Arthur G. and Duncan A. McArthur (eds.)
1914 DOCUMENTS RELATING TO THE CONSTITUTIONAL HISTORY OF CANADA 1791-1818
4 GEORGE V SESSIONAL PAPER NO. 29c
Ottowa: King's Printer

Doughty, Arthur G. and Norah Story
1935 DOCUMENTS RELATING TO THE CONSTITUTIONAL HISTORY OF CANADA 1819-1828
(Selected and edited with notes)
Ottowa: J.O. Patenaude, Printer to the King's Most Excellent Majesty

Dowdell, R.H.
1968 "Personnel administration in the federal public service," in A.M. Willms and W.D.K. Kernaghan (Eds.) PUBLIC ADMINISTRATION IN CANADA: SELECTED READINGS. Methuen: 360-388

Driedger, E.A.
1953 "The preparation of legislation"
THE CANADIAN BAR REVIEW, 31 (January): 33-51,

Dupré, J. Stefan and Paul C. Weiler
1979 "A sense of proportion and a sense of priorities: reflections on the report of the Task Force on Canadian Unity"
THE CANADIAN BAR REVIEW, 57 (September): 446-471

Eliot, T.S.
1948 NOTES TOWARDS THE DEFINITION OF CULTURE
London: Faber and Faber

Elliott, Jean Leonard (ed.)
1971 IMMIGRANT GROUPS
Scarborogh, Ontario: Prentice-Hall

Elliott, Jean Leonard (ed)
1983 TWO NATIONS MANY CULTURES: ETHNIC GROUPS IN CANADA
Scarborough, Ontario: Prentice-Hall Inco.

Ervin, Susan and Robert T. Bower
1952-1953
"Translation problems in international surveys"
PUBLIC OPINION QUATERLY, Winter: 595-604

Esman, Milton J. (ed.)
1977 ETHNIC CONFLICT IN THE WESTERN WORLD
Cornell University Press.

Evans-Pritchard, E.E.
1962 ESSAYS IN SOCIAL ANTHROPOLOGY
London: Faber

Ewart, John Skirving
1894 THE MANITOBA SCHOOL QUESTION: AN HISTORICAL ACCOUNT OF THE RED RIVER OUTBREAK IN 1869 AND 1870, ITS CAUSES AND ITS SUCCESS AS SHEWN IN THE TREATY -- THE MANITOBA ACT AND A SHORT SUMMARY OF PROTESTANT PROMISES.
Toronto: The Copp, Clark Co. (Ltd.)

Falardeau, Jean C.
1960 ROOTS AND VALUES IN CANADIAN LIVES
University of Toronto Press.

Feldman, Elliott J.
1979 "Introduction," in
Elliott J. Feldman and Neil Nevitte (eds.)
THE FUTURE OF NORTH AMERICA: CANADA, THE UNITED STATES, AND QUEBEC NATIONALISM
Center for International Affairs, Harvard University, Cambridge, Mass., and Institute for Research on Public Policy, Montreal, Quebec, pp. 15-34.

Ferguson, George V.
1960 "The English-Canadian outlook"
In Mason Wade, CANADIAN DUALITY
Toronto.

Finestone, Bernard J.
1978 "'Bill 101' and perceptions of the business community" in
MEREDITH MEMORIAL LECTURES 1976-77
Faculty of Law, McGill University: 147-150

Fishman, Joshua A.
1968 "Some contrasts between linguistically homogenous and linguistically heterogenous polities" in Joshua A. Fishman, Charles A. Ferguson and Jyotirindra Das Gupta (eds.)
LINGUISTIC PROBLEMS OF DEVELOPING NATIONS
John Wiley and Sons.

Fishman, Joshua A.
1977 "Language and ethnicity" in
Howard Giles, LANGUAGE, ETHNICITY AND INTERGROUP RELATIONS
New York: Academic Press: 15-58

Forsey, Eugene A.
1962 "Canada: two nations or one?"
THE CANADIAN JOURNAL OF ECONOMICS AND POLITICAL SC
XXVIII, 4 (November): 485-501

Forsey, Eugene A.
1979 "The 'third option'"
THE CANADIAN BAR REVIEW
57 (September): 472-492

Fox, Paul W.
1956-1957
"Canada -- a new parliament with new rules"
PARLIAMENTARY AFFAIRS X: 397-404
(The Journal of the Hansard Society for
Parliamentary Government, England)

Furth, Hans G.
1966 THINKING WITHOUT LANGUAGE:
PSYCHOLOGICAL IMPLICATIONS OF DEAFNESS
New York: Free Press

Gagnon, J.D.
1975 "Immigrants and French-Canadian nationalism"
in Howard Palmer (ed.)
IMMIGRATION AND THE RISE OF MULTICULTURALISM
Copp Clark Publishing

Galtung, Johan
1965 "Institutionalized conflict resolution: a
theoretical paradigm
Journal of Peace Research, 2: 348-397
(The International Peace Research Institute, Oslo)

Garneau, François-Xavier
1860 "Preliminary discourse to *History
of Canada*" translated by Andrew Bell.
In Ramsay Cook (ed.)
FRENCH CANADIAN NATIONALISM: AN ANTHOLOGY
Macmillan of Canada, 1978: 74-81

Giglioli, Pier Paolo (ed.)
1972 LANGUAGE AND SOCIAL CONTEXT
London.

Gillis, D. Hugh
1951 DEMOCRACY IN THE CANADAS, 1759-1867
Toronto: Oxford University Press

Gingras, François-Pierre
1979 "Quebec separatism in comparative perspective:
Comment," in
Elliott J. Feldman and Neil Nevitte (eds.)
THE FUTURE OF NORTH AMERICA: CANADA, THE
UNITED STATES, AND QUEBEC NATIONALISM
Center for International Affairs,
Harvard University, Cambridge, Mass., and
Institute for Research on Public Policy,
Montreal, Quebec, pp. 253-256

Goell, Yosef Israel
1971 BI-NATIONALISM AND BI-LINGUALISM IN
THREE MODERNISED STATES: A COMPARATIVE
STUDY OF CANADA, BELGIUM, AND WHITE
SOUTH AFRICA.
Columbia University Ph.D. thesis.

Gold, Gerald L.
1984 "*La revendication de nos droits:*
the Quebec referendum and Francophone
minorities in Canada"
ETHNIC AND RACIAL STUDIES 7 (1): 106-128

Gourevitch, Peter Alexis
1979 "Quebec separatissm in comparative perspective"
in Elliott J. Feldman and Neil Nevitte (eds.)
THE FUTURE OF NORTH AMERICA: CANADA, THE
UNITED STATES, AND QUEBEC NATIONALISM
Center for International Affairs,
Harvard University, Cambridge, Mass., and
Institute for Research on Public Policy,
Montreal, Quebec, pp. 237-252

Goyder, John C.
1983 "Ethnicity and class identity: the case of
French- and English-speaking Canadians"
ETHNIC AND RACIAL STUDIES 6(1): 72-89

Grabb, Edward G.
1979 "Subordinate group status and perceived chances
for success: the French-Canadian case"
ETHNICITY, 6 (September): 268-280

Grant, Douglas (ed.)
1960 QUEBEC TODAY
University of Toronto Press

Griffith, William E.
1964 "Quebec in revolt"
FOREIGN AFFAIRS 43 (October): 29-36

Grimshaw, Allen D.
1969 "Sociolinguistics and the Sociologist"
AMERICAN PSYCHOLOGIST, 4 (November):312-321

Groulx, Canon Lionel
1978 "Why we are divided"
In Ramsay Cook (ed.)
FRENCH CANADIAN NATIONALISM: AN ANTHOLOGY
Toronto: Macmillan of Canada: 237-256

Guindon, Hubert
1968 "Social unrest, social class, and
Quebec' bureaucratic revolution"
in Blishen *et al*
CANADIAN SOCIETY: SOCIOLOGICAL PERSPECTIVES

Guindon, Hubert
1978 "The modernization of Quebec and the
legitimacy of the Canadian state" in
Daniel Glenday, Hubert Guindon and
Allan Turowetz (eds.)
MODERNIZATION AND THE CANADIAN STATE
Macmillan of Canada: 212-246

Gumperz, John J.
1982 LANGUAGE AND SOCIAL IDENTITY
Cambridge University Press

Gumperz, John J. and Dell Hymes (eds.)
1972 DIRECTIONS IN SOCIOLINGUISTICS:
THE ETHNOGRAPHY OF COMMUNICATION
New York.

Gunn, Donald and Charles R. Tuttle
1880 HISTORY OF MANITOBA
Ottowa: Maclean, Roger and Co.

Gupta, Dipankar
1983 "Racism without colour: the Catholic
ethic and ethnicity in Quebec"
RACE AND CLASS XXV (1): 23-110

Gurr, Ted Robert
1970 WHY MEN REBEL
Princeton University Press

Hartig, Matthias
1981 "Macrolinguistics" in
Robert B. Kaplan, Randall L. Jones
and G. Richard Tucker (eds.)
ANNUAL REVIEW OF APPLIED LINGUISTICS, 1980.
Mass.: Newbury House Publishers, Inc.: 168-180

Haugen, Einar
1977 "Linguistic pluralism as a goal of national policy"
in Douglas C. Walker (ed.) LANGUAGE AND SOCIETY
Ottowa: The University of Ottawa Press

Hechter, Michael
1975 INTERNAL COLONIALISM: THE CELTIC FRINGE
IN BRITISH NATIONAL DEVELOPMENT, 1536-1966.
London: Routledge & Kegan Paul.

Hechter, Michael
1976 "Ethnicity and industrialization: on the
proliferation of the cultural division of
labor" ETHNICITY : 214-224

Hechter, Michael
1979 "On separatism and ethnicity: a response to Sloan's
'ethnicity or imperialism?'"
COMPARATIVE STUDIES IN SOCIETY AND HISTORY
21 (January): 126-129

Heller, Monica S.
1982 "Negotiations of language choice
in Montreal" in John J. Gumperz (ed.)
LANGUAGE AND SOCIAL IDENTITY
Cambridge University Press: 108-118

Henripin, Jacques
1973 "Quebec and the demographic
dilemma of French Canadian society"
In Dale C. Thomson (ed.)
QUEBEC SOCIETY AND POLITICS:
VIEWS FROM THE INSIDE
Toronto: McClelland and Stewart: 155-161

Henry, Nicholas
1980 PUBLIC ADMINISTRATION AND PUBLIC AFFAIRS
N.J.: Prentice-Hall.

Hobart, Charles W.
1977 "Language planning in Canada:
Politics and practices"
In W.H. Coons, Donald M. Taylor and
Marc-Adelard Tremblay (eds.)
THE INDIVIDUAL, LANGUAGE AND SOCIETY IN CANADA
Ottawa: The Canada Council

Hodgetts, J.E.
1952 "Our early peripatetic government"
QUEEN'S QUARTERLY, 59 (Autumn): 316-322

Hodgetts, J.E.
1955 PIONEER PUBLIC SERVICE: AN ADMINISTRATIVE
HISTORY OF THE UNITED CANADAS, 1841-1867
University of Toronto Press.

Hodgetts, J.E.
1973 THE CANADIAN PUBLIC SERVICE:
A PHYSIOLOGY OF GOVERNMENT, 1867-1970
University of Toronto Press

Hodgetts J.E., William McCloskey, Reginald Whitaker
and V. Seymour Wilson
1972 THE BIBLIOGRAPHY OF AN INSTITUTION:
THE CIVIL SERVICE COMMISSION OF CANADA, 1908-1967
McGill-Queen's University Press

Hoffman, David and Norman Ward
1970 BILINGUALISM AND BICULTURALISM IN THE
CANADIAN HOUSE OF COMMONS
Canada: Queen's Printer.

Homans, George Casper
1961 SOCIAL BEHAVIOR: ITS ELEMENTARY FORMS
New York: Harcourt, Brace, and World.

Honsberger, John D.
1965 "Bi-lingualism in Canadian statutes"
THE CANADIAN BAR REVIEW, XLIII: 314-336

Horton, Robin and Ruth Finnegan (eds.)
1973 MODES OF THOUGHT: ESSAYS ON THINKING IN
WESTERN AND NON-WESTERN SOCIETIES
London: Faber and Faber

Hoselitz, Bert and Ann Willner
1962 "Economic development, political strategies,
and American aid" in Mortan A. Kaplan (ed.)
THE REVOLUTION IN WORLD POLITICS
New York: Wiley

Hughes, David Rees and Evelyn Killen
1974 THE ANATOMY OF RACISM: CANADIAN DIMENSIONS
Montreal: Harvest House

Innis, Hugh R.
1973 BILINGUALISM AND BICULTURALISM: AN ABRIDGED VERSION OF THE ROYAL COMMISSION REPORT
McClelland and Stewart Limited

Ish, Daniel
1975 "The effect of the Quebec Official Language Act on federal corporations"
McGILL LAW JOURNAL, 21: 361-386

Jaenen, Cornelius J.
1983 "French roots in the Prairies"
in Jean Leonard Elliott (ed.)
TWO NATIONS, MANY CULTURES:
ETHNIC GROUPS IN CANADA (2nd edition)
Prentice-Hall

Jaenen, Cornelius J.
1984 "The history of French in Manitoba: local initiative or external imposition?"
LANGUAGE AND SOCIETY No. 13 (Spring): 3-16

Jeanneret, F.C.A.
1960 "Introduction"
In Douglas Grant (ed.)
QUEBEC TODAY
University of Toronto Press: 307-309

Joy, Richard J.
1972 LANGUAGES IN CONFLICT: THE CANADIAN EXPERIENCE
Toronto: McClelland and Stewart

Katz, Leslie
1973 "Are there constitutionally guaranteed language rights in criminal code proceedings?"
OSGOODE HALL LAW JOURNAL, 11(3): 545-550

Kaplan, Abraham
1964 THE CONDUCT OF INQUIRY: METHODOLOGY FOR BEHAVIORAL SCIENCE
Chandler Publishing Co.

Kaplan, Morton A.
1971 ON HISTORICAL AND POLITICAL KNOWING: AN INQUIRY INTO SOME PROBLEMS OF UNIVERSAL LAW AND HUMAN FREEDOM
University of Chicago Press.

Kennedy, Ramond
1945 "The colonial crisis and the future"
in Ralph Linton (ed.),
THE SCIENCE OF MAN IN THE WORLD CRISIS
Columbia University Press

Kennedy, William Paul McClure (ed.)
1918 DOCUMENTS OF THE CANADIAN CONSTITUTION,
1759-1915

Kennedy, William Paul McClure
1922 THE CONSTITUTION OF CANADA: AN
INTRODUCTION TO ITS DEVELOPMENT AND LAW
Oxford University Press

Kennedy, William Paul McClure (ed.)
1930 STATUTUES, TREATIES AND DOCUMENTS OF
THE CANADIAN CONSTITUTION 1713-1929
Great Britain: Oxford University Press

Kernaghan, Kenneth
1978 "Representative bureaucracy: the
Canadian perspective"
CANADIAN PUBLIC ADMINISTRATION
21 (Winter): 489-512

Kerr, Robert W.
1970 "Regina v. Murphy and language
rights legislation"
UNIVERSITY OF NEW BRUNSWICK LAW JOURNAL
20 (May): 35-48

Kerr, Robert W.
1979 "The language provisions of the constitutional
amendment bill 1978"
THE CANADIAN BAR REVIEW LVII (December): 640-656

Keyfitz, Nathan
1963 "Canadians and Canadiens"
QUEEN'S QUARTERLY, LXX: 163-182

Khleif, Bud B.
1979a "Insiders, outsiders and renegades:
towards a classification of
ethnolinguistic labels" in Howard Giles
and Bernard Saint-Jacques (eds.)
LANGUAGE AND ETHNIC RELATIONS
Perganon Press: 159-172

Khleif, Bud B.
1979b "Language as identity: toward an ethnography of
Welsh nationalism" ETHNICITY 6 (December): 346-357

Kloss, Heinz
1968 "Notes concerning a language-nation typology" in Joshua A. Fishman, Charles A. Ferguson, and Jyotirindra Das Gupta (eds.), LANGUAGE PROBLEMS OF DEVELOPING NATIONS John Wiley and Sons.

Kluckhohn, Florence Rockwood
1950 "Dominant and substitute profiles of cultural orientations: their significance for the analysis of social stratification" SOCIAL FORCES, 28 (May): 376-393

Kluckhohn, Florence Rockwood and Fred L. Strodtbeck
1973 VARIATIONS IN VALUE ORIENTATIONS Greenwood Press

Knopff, Rainer
1979 "Quebec's 'Holy War' as 'Regime' politics: reflections on the Guibord case" CANADIAN JOURNAL OF POLITICAL SCIENCE XII, 2 (June): 315-331

Krauter, Joseph F. and Morris Davis
1978 MINORITY CANADIANS: ETHNIC GROUPS Methuen Publications

Kwavnick, D.
1965 "The roots of French Canadian discontent" CANADIAN JOURNAL OF ECONOMICS AND POLITICAL SCIENCE, 31: 509-523

Kwavnick, D.
1968 "French Canadians and the civil service of Canada" CANADIAN PUBLIC ADMINISTRATION 11 (Spring): 97-112

La Forest, Gerard V.
1979 "Towards a new Canada: The Canadian Bar Association's report on the constitution" THE CANADIAN BAR REVIEW 57 (September): 493-512

Laczko, Leslie
1978 "Feelings of threat among English-speaking Quebeckers," in D. Glenday et al (ed.) MODERNIZATION AND THE CANADIAN STATE Macmillan

Laflèche, Mgr L.-F.-R.
1866 "The providential mission of the
French Canadians," translated from
*Quelques Considérations sur les
rapports de la société civile avec la
religion et la famille, Trois Rivières,*
In Ramsay Cook (ed.),
FRENCH-CANADIAN NATIONALISM: AN ANTHOLOGY
Toronto: Macmillan of Canada, 1978: 92-106

Laframboise, H.L.
1970 "Administrative reform in the federal
public service: signs of a saturation
psychosis" CANADIAN PUBLIC ADMINISTRATION
14 (2): 303-325

Lambert, Ronald D. and James E. Curtis
1983 "Opposition to multiculturalism among Québécois
and English-Canadians"
CANADIAN REVIEW OF SOCIOLOGY AND ANTHROPOLOGY
20 (May): 193-207

Lange, Donald J.
1980 "Constitutional jurisprudence,
politics, and minority language rights"
MANITOBA LAW JOURNAL
11 (1): 33-57

Leacock, Stephen
1975 "Canada and the immigration problem"
in Howard Palmer (ed.)
IMMIGRATION AND THR RISE OF MULTICULTURALISM
Copp Clark Publishing : 46-51

Le Page, R.B.
1964 THE NATIONAL LANGUAGE QUESTION: LINGUISTIC
PROBLEMS OF NEWLY INDEPENDENT STATES
London: Oxford University Press

Legendre, Camille
1982 FRENCH CANADA IN CRISIS:
A NEW SOCIETY IN THE MAKING?
(with a 1982 postscript by Murray Dickson)
London: Minority Rights Group

Léger, Jean-Marc
1960 "Aspects of French nationalism"
In Douglas Grant (ed.)
QUEBEC TODAY
University of Toronto Press

Léger, Jean-Marc
1978 "Where does neo-nationalism lead?"
In Ramsay Cook (ed.)
FRENCH CANADIAN NATIONALSIM: AN ANTHOLOGY
Toronto: Macmillan of Canada: 304-313

Lehmbruch, Gerhard
1967 "A non-competitive pattern or conflict management
in liberal democracies: the case of Switzerland,
Austria and Lebanon," in Kenneth D. McRae (ed.)
CONSOCIATIONAL DEMOCRACY: POLITICAL ACCOMMODATION
IN SEGMENTED SOCIETIES
McClleland and Stewart Ltd.

Lenneberg, Eric H.
1953 "Cognition in ethnolinguistics"
LANGUAGE 29: 463-471

Lenneberg, Eric H.
1967 BIOLOGICAL FOUNDATIONS OF LANGUAGE
Wiley.

Lévesque, René
1976 "For an independent Quebec"
FOREIGN AFFAIRS 54 (July): 734-744

Lévesque, René
1979 "Quebec independence," in
Elliott J. Feldman and Neil Nevitte (eds.)
THE FUTURE OF NORTH AMERICA: CANADA, THE
UNITED STATES, AND QUEBEC NATIONALISM
Center for International Affairs,
Harvard University, Cambridge, Mass., and
Institute for Research on Public Policy,
Montreal, Quebec, pp. 61-70.

Levinson, D.J.
1949 "An approach to the theory and measurement
of ethnocentric ideology"
JOURNAL OF PSYCHOLOGY, 28: 19-39.

Lewis, Oscar
1959 FIVE FAMILIES: MEXICAN CASE STUDIES IN THE
CULTURE OF POVERTY New York: Basic Books

Lewis, Oscar
1966 LA VIDA New York: Random House

Lijphart, Arend
1968 "Typologies of democratic systems,"
COMPARATIVE POLITICAL STUDIES 1: 3-44

Lijphart, Arend
1969 "Consociational democracy"
WORLD POLITICS 21(2): 207-225

Lijphart, Arend
1971 "Cultural diversity and theories of political integration"
CANADIAN JOURNAL OF POLITICAL SCIENCE 4: 1-14

Lijphart, Arend
1979 "Consociation and federation: conceptual and empirical links"
CANADIAN JOURNAL OF POLITICAL SCIENCE
XII (September): 499-515

Lortie, Pierre
1978 "Education, broadcasting, language policy and the provinces," in Michael Walker (ed.)
CANADIAN CONFEDERATION AT THE CROSSROADS:
THE SEARCH FOR A FEDERAL-PROVINCIAL BALANCE
The Fraser Institute

Lorwin, Val R.
1971 "Segmented pluralism: ideological cleavages and political cohesion in the smaller European democracies" COMPARATIVE POLITICS
3 (January): 141-175

Lucas, C.P. (ed.)
1912 LORD DURHAM'S REPORT ON THE AFFAIRS OF BRITISH NORTH AMERICA (3 volumes)
Oxford: Clarendon Press

Mackey, W.F.
1967 BILINGUALISM AS A WORLD PROBLEM
Harvest House.

McCaffrey, Lawrence J.
1979 IRELAND: FROM COLONY TO NATION STATE
New Jersey: Prentice-Hall, Inc.

McKinsey, Lauren S.
1976 "Dimensions of national political integration and disintegration"
COMPARATIVE POLITICAL STUDIES
9(3) (October): 335-362

McRae, Kenneth Douglas (ed.)
1974 CONSOCIATIONAL DEMOCRACY: POLITICAL ACCOMMODATION IN SEGMENTED SOCIETIES
McClelland and Stewart.

McRae, Kenneth Douglas
1979a "Comment: federation, consociation, corporatism -- an addendum to Arend Lijphart"
CANADIAN JOURNAL OF POLITICAL SCIENCE
XII:3 (September): 517-522

McRae, Kenneth Douglas
1979b "The plural society and the western political tradition" CANADIAN JOURNAL OF POLITICAL SCIENCE
XII:4 (December): 675-688

McRae, Kenneth Douglas
1983 CONFLICT AND COMPROMISE IN MULTILINGUAL SOCIETIES: SWITZERLAND
Wilfrid Laurier University Press

McRoberts, Kenneth
1979 "Internal colonialism: the case of Quebec"
ETHNIC AND RACIAL STUDIES
2 (July): 293-318

McRoberts, Kenneth
1984 "The sources of neo-national in Quebec"
ETHNIC AND RACIAL STUDIES 7(1): 55-85

McWhinney, Edward
1965 "Federalism, biculturalism, and international law"
THE CANADIAN YEARBOOK OF INTERNATIONAL LAW 1965
The Publications Centre,
The University of British Columbia.

McWhinney, Edward
1967 "The new, pluralistic federalism in Canada"
REVUE JURIDIQUE THEMIS: 139-149

McWhinney, Edward
1979 QUEBEC AND THE CONSTITUTION 1960-1978
University of Toronto Press

McWhinney, Edward
1981 "The 'language' problem in Quebec"
THE AMERICAN JOURNAL OF COMPARATIVE LAW
29: 413-427

Madsen, Helga
1981 THE COLLECTIVIST ORIENTATION OF QUEBEC: ITS HISTORICAL AND SOCIAL SIGNIFICANCE
M.A. Sociology thesis, University of Alberta

Magnet, Joseph Eliot
1980 "Validity of Manitoba laws after Forest: What is to be done?"
MANITOBA LAW JOURNAL, 10 (3): 241-257

Magnet, Joseph Eliot
1981a "Court ordered bilingualism"
REVUE GÉNÉRALE DE DROIT
12 (Sommaire): 237-244

Magnet, Joseph Eliot
1981b "Language rights: myth and reality"
REVUE GÉNÉRALE DE DROIT
12 (Sommaire): 261-270

Mallory, J.R.
1967 "The B.N.A. Act: Constitutional adaptation and social change"
REVUE JURIDIQUE THÉMIS: 127-137

Marx, Herbert
1967 "Language rights in the Canadian constitution"
REVUE JURIDIQUE THÉMIS: 239-286

Meyer, Perry
1973 "Human rights declarations and their place in history of constitutional law: a Quebec perspective"
REVUE JURIDIQUE THÉMIS 8(2): 275-281

Migué, Jean-Luc
1979 NATIONALISTIC POLICIES IN CANADA
Montreal: C.D. Howe Research Institute

Miller, S.M. and Pamela Roby
1970 "Poverty: changing social stratification," in Peter Townsend (ed.)
THE CONCEPT OF POVERTY
London: Heinemann

Miller, Walter B.
1958 "Lower class culture as a generating milieu of gang dilenquency"
JOURNAL OF SOCIAL ISSUES 14: 5-19

Mink, Louis O.
1965 "The autonomy of historical understanding"
HISTORY AND THEORY, 5 (1): 24-47

Moodley, Kogila
1983 "Canadiana multiculturalism as ideology"
ETHNIC AND RACIAL STUDIES 6 (3): 320-331

Morf, Gustav
1976 "Ethnic groups and developmental models: the case of Quebec" in Abu Said and Luiz R. Simmons (eds.)
ETHNICITY IN AN INTERNATIONAL CONTEXT
Transaction Books: 76-91

Morris, Charles
1956 VARIETIES OF HUMAN VALUES
The University of Chicago Press

Morris, C.
1967 WESTERN POLITICAL THOUGHT, v. 1
Basic Books.

Morton, William Lewis
1957 MANITOBA: A HISTORY
University of Toronto Press

Morton, William Lewis
1972 THE CANADIAN IDENTITY
The University of Wisconsin Press

Morton, William Lewis
1978 THE CANADIAN CRISIS: ITS CAUSES AND ITS OUTCOME
Winnipeg: The Great-West Life Assurance Co.

Morton, William Lewis
1981 "The historical phenomenon of minorities: The Canadian experience"
CANADIAN ETHNIC STUDIES, XIII (3): 1-39

Muldoon, Francis C.
1978 "Entrenched language rights"
MANITOBA LAW JOURNAL, 8 (4): 629-636

Murphy, Raymond with the collaboration of Ann B. Denis
1979 SOCIOLOGICAL THEORIES OF EDUCATION
McGraw-Hill Ryerson Limited

Murphy, Raymond
1984 "The structure of closure: a critique and development of the theories of Weber, Collins, and Parkin"
THE BRITISH JOURNAL OF SOCIOLOGY
XXXV (December): 547-567

Murray, Peter
1969 "The use of the French language in criminal courts outside Quebec -- section 11 of Bill C-120: R. v. Watts, ex parte Poulin and R. v. Murphy, ex parte Belisle and Moreau"
FACULTY OF LAW REVIEW - UNIVERSITY OF TORONTO
27 (August): 87-93

Nasir, Haroon
1979 ON RELATIONSHIP BETWEEN LANGUAGE AND COGNITION. Unpublished manuscript, The University of Alberta.

Neatby, Hilda
1937 THE ADMINISTRATION OF JUSTICE UNDER THE QUEBEC ACT. Minneapolis.

Nettler, Gwynn
1957 "A measure of alienation"
AMERICAN SOCIOLOGICAL REVIEW 22:670-677

Nettler, Gwynn
1984 EXPLAINING CRIME Third Edition McGraw-Hill

Nevitte, Neil
1979 "Nationalism, states, and nations"
in Elliot J. Feldman and Neil Nevitte (eds.)
THE FUTURE OF NORTH AMERICA: CANADA, THE UNITED STATES, AND QUEBEC NATIONALISM
Center for International Affairs, Harvard University, Cambridge, Mass., and Institute for Research on Public Policy, Montreal, Quebec, pp. 343-359

O'Connell, M.P.
1953 "The ideas of Henri Bourassa"
THE CANADIAN JOURNAL OF ECONOMICS AND POLITICAL SC.
XIX (August): 361-376

Ollivier, Maurice
1962 BRITISH NORTH AMERICA ACTS AND SELECTED STATUTES, 1867-1962.
Ottowa.

Ormsby, William
1969 THE EMERGENCE OF THE FEDERAL CONCEPT
IN CANADA, 1839-1845.
University of Toronto Press

Osgood, Charles S.
1970 "Interpersonal verbs and interpersonal behavior,"
in J.L. Cowan (ed.)
STUDIES IN THOUGHT AND LANGUAGE
Tucson: University of Arizona Press

Ouellet, Fernand
1962 "The historical background of separatism
in Quebec," translated from *Les
Fondements historiques de l'option
séparatiste dans le Québec*, first
published in *Liberté*, 4 (21)
March:90-112, and reprinted in the
CANADIAN HISTORICAL REVIEW
XLIII (3), September: 185-203.
Also reprinted in Ramsay Cook (ed.)
FRENCH CANADIAN NATIONALISM: AN ANTHOLOGY
Toronto: Macmillan of Canada, 1978: 49-63

Page, Robert
1972 CANADIAN STUDIES: THE CURRENT DILEMMA
Prepared for the Committee for Independent
Canada. Ottowa.

Palmer, Howard (ed.)
1975 IMMIGRATION AND THE RISE OF MULTICULTURALISM
Copp Clark Publishing

Panelosa, Fernando
1981 INTRODUCTION TO THE SOCIOLOGY OF LANGUAGE
Mass.: Newbury House Publishers, Inc.

Pâquet, Mgr L.-A.
1902 "A sermon on the vocation of the
French race in America," translated
from *Sermon sur la vocation de la
race française en Amérique*.
In Ramsay Cook (ed.)
FRENCH-CANADIAN NATIONALISM: AN ANTHOLOGY
Toronto: Macmillan of Canada, 1978: 152-160

Paradis, Jerome B.
1970 "Language rights in multicultural states:
A comparative study"
THE CANADIAN BAR REVIEW, XLVIII: 615-697

Parent, Etienne
1846 "Industry as a means of survival for the French-Canadian nationality," translated from *L'Industrie considérée comme moyen de conserver la nationalité canadienne-française*. In Ramsay Cook (ed.) FRENCH-CANADIAN NATIONALISM: AN ANTHOLOGY Toronto: Macmillan of Canada, 1978: 82-91

Parkin, Frank
1974 "Strategies of social closure in class formation" in Frank Parkin (ed.) THE SOCIAL ANALYSIS OF CLASS STRUCTURE The British Sociological Association.

Passmore, J.A.
1958 "The objectivity of history" PHILOSOPHY, 33 (125): 97-111.

Piaget, Jean
1954 "Language and thought from the genetic point of view" ACTA PSYCHOLOGICA, 10: 88-98

Piaget, Jean
1968 SIX PSYCHOLOGICAL STUDIES New York: Vintage Books.

Pinard, Maurice and Richard Hamilton
1984 "The class bases of the Quebec independece movement: conjectures and evidence" ETHNIC AND RACIAL STUDIES 7(1): 19-54

Piotte, Jean-Marc
1978 "From humiliation to revolution" Translated from *De l'humiliation à la révolution*. In Ramsay Cook (ed.) FRENCH-CANADIAN NATIONALISM: AN ANTHOLOGY Toronto: Macmillan of Canada: 314-322

Pope, J.
1921 CORRESPONDENCE OF SIR JOHN MACDONALD Oxford University Press

Porter, John
1969 "Bilingualism and the myths of culture" CANADIAN REVIEW OF SOCIOLOGY AND ANTHROPOLOGY 6(2):111-119

Porter, John
1975 "Ethnic pluralism in Canadian perspective"
in Nathan Glazer and Daniel P. Moynihan (eds.)
ETHNICITY: THEORY AND EXPERIENCE
Cambridge, Mass.: Harvard University Press

Postgate, Dale and Kenneth McRoberts
1976 QUEBEC: SOCIAL CHANGE AND POLITICAL CRISIS
Toronto: McClelland and Stewart

Postiglione, Gerard A.
1983 ETHNICITY AND AMERICAN SOCIAL THEORY:
TOWARD CRITICAL PLURALISM
University Press of America

Quebec. The Royal Commission on the French Language
1973 and Language Rights in Quebec
REPORT OF THE ROYAL COMMISSION ON THE FRENCH
LANGUAGE AND LANGUAGE RIGHTS IN QUEBEC

Quinn, Herbert F.
1979 THE UNION NATIONALE: QUEBEC NATIONALISM FROM
DUPLESIS TO LEVESQUE
University of Toronto Press

Raddall, Thomas H.
1957 THE PATH OF DESTINY: CANADA FROM THE
BRITISH CONQUEST TO HOME RULE, 1763-1850.
Toronto.

Rankin, William
1975 THE PREDICTIVE VALIDITY OF ROKEACH'S VALUE SURVEY
M.A. thesis Washington State University

Rawkins, Phillip
1984 "The role of the state in the transformation
of the nationalist movements of the 1960s:
comparing Wales and Quebec"
ETHNIC AND RACIAL STUDIES 7(1): 86-105

Raynauld, André
1973 "The economy of Quebec: A general assessment"
In Dale C. Thomson (ed.)
QUEBEC SOCIETY AND POLITICS:
VIEWS FROM THE INSIDE
McClelland and Stewart: 139-154

Regenstreif, Peter
1965 THE DIEFENBAKER INTERLUDE: PARTIES AND VOTING IN CANADA
Longmans Canada Ltd.

Richer, Stephen and Pierre Laporte
1975 "Culture, cognition, and English-French competition"
in Jean Leonard Elliott (ed.)
MINORITY CANADIANS, vol. II.
Prentice-Hall: 141-150.

Richmond, Anthony H.
1984a "After the referenda: the future of ethnic nationalism in Britain and Canada: editorial introduction"
ETHNIC AND RACIAL STUDIES 7(1): 1-3

Richmond, Anthony H.
1984b "Ethnic nationalism and postindustrialism"
ETHNIC AND RACIAL STUDIES 7(1): 4-18

Riley, Patrick
1976 "The official language act of Quebec"
MANITOBA LAW JOURNAL, 7 (2): 93-109

Rioux, Marcel and Yves Martin (eds.)
1964 FRENCH-CANADIAN SOCIETY Vol. I
McClelland and Stewart

Robin, Martin
1978 CANADIAN PROVINCIAL POLITICS: THE PARTY SYSTEMS OF THE TEN PROVINCES
Prentice-Hall.

Rokeach, Milton
1972 BELIEFS ATTITUDES AND VALUES: A THEORY OF ORGANIZATION AND CHANGE
Jossey-Bass Inc., Publishers

Rokeach, Milton
1973 THE NATURE OF HUMAN VALUES Free Press

Rokeach, Milton
1979 UNDERSTANDING HUMAN VALUES Free Press

Rosen, Bernard C.
1959 "Race, ethnicity, and the achievement syndrome"
AMERICAN SOCIOLOGICAL REVIEW
24 (February): 47-60

Rosenstein, Mark
1978 "'Bill 101' and affirmative action: Francization vs. francophonization"
MEREDITH MEMORIAL LECTURES 1976-1977
Faculty of Law, McGill University: 151-159

Rotstein, Abraham
1976 "Canada: the new nationalism"
FOREIGN AFFAIRS 55 (October): 97-118

Rudnychkyj, J.B.
1976 LINGUICIDE
Winnepeg: Ukrainian Technological University

Runciman, Walter Garrison
1966 RELATIVE DEPRIVATION AND SOCIAL JUSTICE: A STUDY OF ATTITUDES TO SOCIAL INEQUALITY IN TWENTIETH CENTURY ENGLAND
London: Routledge and Kegan Paul

Rustow, Dankwart
1968 "Language, modernization, and nationhood -- an attempt at typology"
in Joshua A. Fishman, Charles A. Ferguson and Jyotirindra Das Gupta (eds.)
LANGUAGE PROBLEMS OF DEVELOPING NATIONS
John Wiley and Sons.

Ryan, Claude
1975 "Canada: bicultural or multicultural?"
in Howard Palmer (ed.)
IMMIGRATION AND THE RISE OF MULTICULTURALISM
Copp Clark Publishing : 147-151

Sancton, Andrew
1979 "The impact of language differences on metropolitan reform in Montreal"
CANADIAN PUBLIC ADMINISTRATION
22 (Summer): 227-250

Scott, Frank Reginald
1942 "Section 94 of the British North America Act"
THE CANADIAN BAR REVIEW XX: 525=544

Scott, Frank Reginald
1971 "Language rights and language policy in Canada" (the Sixth Annual Manitoba Law School Foundation Lecture)
MANITOBA LAW JOURNAL, 4 (2): 243-257

Sealy, Nanciellen
1978 "Language conflict and schools in New Brunswick" in Martin L. Kovacs (ed.)
ETHNIC CANADIANS: CULTURE AND EDUCATION
Regina: 305-315

Sheppard, Claude-Armand
1971 THE LAW OF LANGUAGES IN CANADA
Ottowa: Information Canada

Shlonsky, Hagith R.
1984 "Continuity in poverty along family lines: A reexamination of the international cycle of poverty"
HUMAN RELATIONS 37(6): 455-472

Short, David E.
1981 "Restrictions on access to English language schools in Quebec: an international human rights analysis"
CANADA-UNITED STATES LAW JOURNAL
4 (Summer): 1-38

Shortt, Adam and Arthur G. Doughty
1918 DOCUMENTS RELATING TO THE CONSTITUTIONAL HISTORY OF CANADA 1759-1791. (Canadian Archives, 6-7 Edward VII, Sessional Paper no. 18 [2d ed, 2 vol]. Ottowa.

Siegfried, André
1966 THE RACE QUESTION IN CANADA
McClelland and Stewart Limited

Sloan, William N.
1979 "Ethnicity or imperialism? A review article"
COMPARATIVE STUDIES IN SOCIETY AND HISTORY
21 (January): 113-125

Smiley, Donald V.
1967 THE CANADIAN POLITICAL NATIONALITY
Methuen.

Smiley, Donald V.
1976 CANADA IN QUESTION:
FEDERALISM IN THE SEVENTIES
McGraw-Hill Ryerson

Smiley, Donald V.
1977 "French-English relations in Canada
and consociational democracy"
in Milton J. Esman (ed.)
ETHNIC CONFLICT IN THE WESTERN WORLD
Cornell University Press

Smith, Goldwin
1971 CANADA AND THE CANADIAN QUESTION
University of Toronto Press

Staple, Janice
1974 "Consociationalism at prvincial level:
the erosion of dualism in Manitoba, 1870-1890"
in Kenneth D. McRae (ed.)
CONSOCIATIONAL DEMOCRACY:
POLITICAL ACCOMMODATION IN SEGMENTED SOCIETIES
McClelland and Stewart Limited

Stouffer, Samuel A. et al
1949 THE AMERICAN SOLDIER: ADJUSTMENT DURING ARMY LIFE
Princeton University Press

Taylor, Norman W.
1964 "The French-Canadian industrial entrepreneur
and his environment" in Marcel Rioux and
Yves Martin (eds.) FRENCH-CANADIAN SOCIETY
vol. I. McClelland and Stewart: 271-295.

Theoderson, George A. and Achilles G. Theoderson
1969 MODERN DICTIONARY OF SOCIOLOGY
New York: Crowell

Thomson, Dale C. (ed.)
1973 QUEBEC SOCIETY AND POLITICS:
VIEWS FROM THE INSIDE
Toronto: McClelland and Stewart

Thorson, Hon. Joseph T.
1968a "The British North America Act and the
Province of Quebec"
CHITTY'S LAW JOURNAL, (January): 5-12

Thorson, Hon. Joseph T.
1968b "Proposed Official Languages Act"
CHITTY'S LAW JOURNAL
16 (December): 325-330

Thorson, Hon. Joseph T.
1969 "Bilingualism in the courts -- is it justified?" CHITTY'S LAW JOURNAL
17 (April): 109-114

Tilly, Charles
1981 AS SOCIOLOGY MEETS HISTORY
New York: Academic Press

Trudeau, Pierre Elliott
1956 "Quebec on the eve of the Asbestos strike"
Translated from *La Province de Quebec au moment de la greve.*
In Ramsay Cook (ed.)
FRENCH-CANADIAN NATIONALISM: AN ANTHOLOGY
Toronto: Macmillan of Canada, 1978: 32-48

Trudeau, Pierre Elliott
1969 "Proposed Official Languages Act"
CHITTY'S LAW JOURNAL
17 (January): 1-2

Trudgill, Peter
1974 SOCIOLINGUISTICS: AN INTRODUCTION
Pelican Books.

Turnbull, C.
1972 THE MOUNTAIN PEOPLE
New York: Simon & Schuster

Usher, D.
1978 "The English response to the prospect of the separation of Quebec"
CANADIAN PUBLIC POLICY IV(1): 57-70

Valentine, Charles A.
1968 CULTURE AND POVERTY: CRITIQUE AND COUNTER-PROPOSALS.
Chicago.

Vallee, Frank G.
1975 "Multi-ethnic societies: the issues of identity and inequality" in
Dennis Forcese and Stephen Richer,
ISSUES IN CANADIAN SOCIETY: AN INTRODUCTION TO SOCIOLOGY. Prentice-Hall: 162-202.

Vennat, Manon T.
1978 "Aspects of francization process under Bill 101"
MEREDITH MEMORIAL LECTURES 1976-1977
Faculty of Law, McGill University: 167-196

Vygotsky, Lev Semenovich
1962 THOUGHT AND LANGUAGE
Translated by Eugenia Hanfmann and Gertrude Vaker
Cambridge, Mass.: The M.I.T. Press

Wade, Mason
1956 THE FRENCH CANADIANS 1760-1945
Toronto: Macmillan Co.

Wade, Mason (ed.)
1960 CANADIAN DUALISM: STUDIES OF FRENCH-ENGLISH RELATIONS University of Toronto Press

Wade, Mason
1964 THE FRENCH-CANADIAN OUTLOOK
McClelland and Stewart

Wade, Mason
1968 THE FRENCH CANADIANS
(revised edition in two volumes)
Volume One: 1760-1911
Volume Two: 1911-1967
Macmillan.

Waite, P.B. (ed.)
1963 THE CONFEDERATION DEBATES IN THE PROVINCE OF CANADA/1865
McClelland and Stewart Limited

Walsh, W.H.
1961 "The limits of scientific history"
In James Hogan (ed.)
HISTORICAL STUDIES III
London: 45-57

Ward, Norman
1956-57
"Parliamentary bilingualism in Canada"
PARLIAMENTARY AFFAIRS
(The Journal of the Hansard Society,
England): 155-164.

Weber, Max
1968 ECONOMY AND SOCIETY: AN OUTLINE OF
INTERPRETIVE SOCIOLOGY
New York: Bedminster Press

Wells, Alan
1983 "The meaning of conflict theory
in contemporary sociology"
CORNELL JOURNAL OF SOCIAL RELATIONS
17 (1): 31-43

White, Peter T.
1955 "The interpreter: Linguist plus diplomat"
NEW YORK TIMES MAGAZINE 6 (November)

Whorf, Benjamin Lee
1941 "The relation of habitual thought
and behavior to language" in
Leslie Spier (ed.)
LANGUAGE, CULTURE, AND PERSONALITY:
ESSAYS IN MEMORY OF EDWARD SAPIR

Whyte, Donald R.
1965 "Sociological aspects of poverty:
a conceptual analysis"
CANADIAN REVIEW OF SOCIOLOGY AND ANTHROPOLOGY
2: 175-189

Wilson, V. Seymour
1973 "The relationship between scientific
management and personnel policy in
North American administrative systems"
PUBLIC ADMINISTRATION, 51 (Summer): 193-205
(Journal of the Royal Institute of
Public Administration, London, England)

Wilson, V. Seymour
1974 "Language policy" in
G. Bruce Doern and V. Seymour Wilson (eds.)
ISSUES IN CANADIAN PUBLIC POLICY
Macmillan of Canada: 253-285

Wilson, V. Seymour and Willard A. Mullins
1978 "Representative bureaucracy:
linguisitc/ethnic aspects in Canadian
public policy"
CANADIAN PUBLIC ADMINISTRATION
21 (Winter): 539-547

Wise, S.F.
1970 "Conservatism and political development:
the Canadian case"
THE SOUTH ATLANTIC QUARTERLY
LXIX (2) Spring: 226-243

Woolfson, Peter
1983 "Language in Quebec:
legal and societal issues"
AMERICAN REVIEW OF CANADIAN STUDIES
XIII(2): 42-51

Yinger, J. Milton
1983 "Ethnicity and social change: the
interaction of structural, cultural, and
personality factors"
ETHNIC AND RACIAL STUDIES 6(4) (Oct.): 395-409